



# Policing and Crime Act 2017

## 2017 CHAPTER 3

### PART 2

#### POLICE COMPLAINTS, DISCIPLINE AND INSPECTION

#### CHAPTER 1

##### POLICE COMPLAINTS

### 13 Local policing bodies: functions in relation to complaints

In Part 2 of the Police Reform Act 2002 (complaints and misconduct), after section 13 insert—

#### “13A Local policing bodies: functions in relation to complaints

- (1) The local policing body that maintains a police force may give notice to the chief officer of the police force that it (rather than the chief officer) is to exercise the functions conferred on the chief officer by the provisions specified in subsection (2) or subsections (2) and (3).
- (2) The provisions specified in this subsection are—
  - (a) paragraph 2(6) to (6D) of Schedule 3, and
  - (b) paragraph 2(9) and (10) of Schedule 3 in so far as relating to a determination made for the purposes of paragraph 2(6) to (6C) of that Schedule.
- (3) The provisions specified in this subsection are—
  - (a) section 20, and
  - (b) section 21 in so far as that section relates to complaints.

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- (4) In relation to any complaint in respect of which the chief officer is the appropriate authority that is made on or after the day on which a notice under subsection (1) is given—
- (a) the functions of the chief officer to which the notice relates become functions of the local policing body,
  - (b) references to the chief officer, including in the chief officer's capacity as an appropriate authority, in the provisions specified in subsection (2) or (as the case may be) subsections (2) and (3) are to be read as references to the local policing body, and
  - (c) for the purpose of paragraph 6(1) of Schedule 3, the complaint is to be treated as having been recorded by the chief officer.
- (5) Where the notice under subsection (1) relates to the functions conferred on the chief officer by the provisions specified in subsections (2) and (3), subsection (4)(b) does not apply to the references to an appropriate authority in sections 20(2)(a) and (3A)(a) and 21(7)(a) and (8A)(a).
- (6) The Secretary of State may by regulations make provision in connection with the giving of notices under subsection (1) and their withdrawal.
- (7) Regulations under subsection (6) may (amongst other things) make provision about—
- (a) the steps that a local policing body must take before giving a notice;
  - (b) the circumstances in which a notice may be withdrawn.”

#### **Commencement Information**

**II** [S. 13](#) in force for specified purposes at Royal Assent, see [s. 183](#)

## **14 Definition of police complaint**

- (1) Section 12 of the Police Reform Act 2002 (complaints, matters and persons to which Part 2 of the Act applies) is amended as follows.
- (2) For subsection (1) substitute—
- “(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;

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- (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.”
- (3) In subsection (3)—
- (a) for “subsection (1)(b)” substitute “ subsection (1B)(b) ”;
  - (b) for “made by or on behalf of a person who” substitute “ where the person in question ”.
- (4) After subsection (4) insert—
- “(4A) In this section, “the person in question” means the person expressing dissatisfaction or the person on whose behalf dissatisfaction is being expressed.”
- (5) In subsection (6), for the words before paragraph (a) substitute “ 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— ”.
- (6) Schedule 4 makes amendments of the Police Reform Act 2002 in consequence of the amendments of section 12 of that Act made by this section.

#### **Commencement Information**

**I2** [S. 14](#) in force for specified purposes at Royal Assent, see [s. 183](#)

## **15 Duty to keep complainant and other interested persons informed**

- (1) Part 2 of the Police Reform Act 2002 (complaints and misconduct) is amended as follows.
- (2) In section 20 (duty to keep the complainant informed), after subsection (3) insert—
- “(3A) In any case in which a complaint is being handled—
- (a) in accordance with paragraph 6(2A) of Schedule 3 otherwise than by the appropriate authority making arrangements for the complaint to be investigated by the authority on its own behalf, or
  - (b) otherwise than in accordance with Schedule 3 (as to which see paragraph 2(6C) of that Schedule),
- it shall be the duty of the appropriate authority to provide the complainant with all such information as will keep him properly informed, while the complaint is being handled and subsequently, of all the matters mentioned in subsection (4).”
- (3) In section 20, for subsection (4) substitute—
- “(4) The matters of which the complainant must be kept properly informed are—
- (a) the progress of the handling of the complaint;
  - (b) the outcome of the handling of the complaint;
  - (c) any right to apply for a review conferred on the complainant by paragraph 6A or 25 of Schedule 3 (as the case may be);
  - (d) such other matters as may be specified in regulations made by the Secretary of State.

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- (4A) The generality of subsection (4)(a) and (b) is not affected by any requirement to notify the complainant that is imposed by any other provision of this Part.”
- (4) In section 20, after subsection (8) insert—
- “(8A) In any case in which there is an investigation of a complaint, the Commission or the appropriate authority may comply with its duty under subsection (1) or (2) (as the case may be) so far as relating to the findings of a report submitted under provision made by virtue of paragraph 20A(4)(b) of Schedule 3, or a report of the investigation submitted under paragraph 22 of Schedule 3, by sending the complainant a copy of the report.
- (8B) Subsection (8A) applies notwithstanding any obligation of secrecy imposed by any rule of law or otherwise but is subject to—
- (a) regulations made under subsection (5), and
- (b) section 21A.”
- (5) In section 20(9), after “under this Part” insert “, or who is otherwise involved in the handling of a complaint under this Part, ”.
- (6) In section 21 (duty to provide information for other persons), after subsection (8) insert—
- “(8A) In any case in which—
- (a) the complaint is being handled in accordance with paragraph 6(2A) of Schedule 3 otherwise than by the appropriate authority making arrangements for the complaint to be investigated by the authority on its own behalf, or
- (b) the recordable conduct matter or DSI matter is being handled in a manner determined by the appropriate authority in accordance with paragraph 10(4D), 11(3E), 14(2) or 14D(2) of Schedule 3 otherwise than by the appropriate authority making arrangements for the matter to be investigated by the authority on its own behalf,
- it shall be the duty of the appropriate authority to provide the interested person with all such information as will keep him properly informed, while the complaint, recordable conduct matter or DSI matter is being handled and subsequently, of all the matters mentioned in subsection (9).”
- (7) In section 21, for subsection (9) substitute—
- “(9) The matters of which the interested person must be kept properly informed are—
- (a) the progress of the handling of the complaint, recordable conduct matter or DSI matter;
- (b) the outcome of the handling of the complaint, recordable conduct matter or DSI matter;
- (c) such other matters as may be specified in regulations made by the Secretary of State.
- (9A) The generality of subsection (9)(a) and (b) is not affected by any requirement to notify an interested person that is imposed by any other provision of this Part.”
- (8) In section 21, after subsection (11) insert—

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- “(11A) In any case in which there is an investigation of a complaint, recordable conduct matter or DSI matter, the Commission or the appropriate authority may comply with its duty under subsection (6) or (7) (as the case may be) so far as relating to the findings of a report submitted under provision made by virtue of paragraph 20A(4)(b) of Schedule 3, or a report of the investigation submitted under paragraph 22 or 24A of Schedule 3, by sending an interested person a copy of the report.
- (11B) Subsection (11A) applies notwithstanding any obligation of secrecy imposed by any rule of law or otherwise but is subject to—
- (a) regulations made under subsection (10), and
  - (b) section 21A.”
- (9) In Schedule 3—
- (a) in paragraph 23 (action by the Commission in response to an investigation report under paragraph 22), omit sub-paragraphs (4) and (9) to (12);
  - (b) in paragraph 24 (action by the appropriate authority in response to an investigation report under paragraph 22), omit sub-paragraphs (4) and (7) to (10).
- (10) In consequence of the repeal made by subsection (9)(b), Schedule 3 is further amended as follows—
- (a) in paragraph 24, after sub-paragraph (6A) (as inserted by Schedule 5) insert—

“(6B) It shall be the duty of the appropriate authority—

    - (a) to take the action which it determines under sub-paragraph (6) that it is required to, or will in its discretion, take, and
    - (b) in a case where that action consists of or includes the bringing of disciplinary proceedings, to secure that those proceedings, once brought, are proceeded with to a proper conclusion.”;
  - (b) in paragraph 27 (duties with respect to disciplinary proceedings etc)—
    - (i) in sub-paragraph (1), omit paragraph (a) (including the “or” at the end);
    - (ii) in sub-paragraph (2)(a), omit “which has been or is required to be notified or, as the case may be,”.
- (11) In consequence of the repeals made by subsection (9), omit the following—
- (a) in the Criminal Justice and Immigration Act 2008, in Schedule 23, paragraph 14(7) and (8);
  - (b) in the Anti-social Behaviour, Crime and Policing Act 2014, in Part 3 of Schedule 11, paragraph 95(6).

#### **Commencement Information**

**I3** S. 15 in force for specified purposes at Royal Assent, see s. 183

## **16 Complaints, conduct matters and DSI matters: procedure**

Schedule 5 amends Schedule 3 to the Police Reform Act 2002 (handling of complaints and conduct matters etc).

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#### **Commencement Information**

**I4** S. 16 in force for specified purposes at Royal Assent, see s. 183

### **17 Initiation of investigations by IPCC**

- (1) Schedule 3 to the Police Reform Act 2002 (handling of complaints and conduct matters etc) is amended as follows.
- (2) In paragraph 4 (reference of complaints to the Commission), in sub-paragraph (7), in the words before paragraph (a), after “occasion” insert “, or that has been treated as having been so referred by virtue of paragraph 4A ”.
- (3) After paragraph 4 insert—

#### **4A “Power of Commission to treat complaint as having been referred**

- (1) The Commission may treat a complaint that comes to its attention otherwise than by having been referred to it under paragraph 4 as having been so referred.
- (2) Where the Commission treats a complaint as having been referred to it—
  - (a) paragraphs 2 and 4 do not apply, or cease to apply, in relation to the complaint except to the extent provided for by paragraph 4(7), and
  - (b) paragraphs 5, 6, 6A, 15 and 25 apply in relation to the complaint as if it had been referred to the Commission by the appropriate authority under paragraph 4.
- (3) The Commission must notify the following that it is treating a complaint as having been referred to it—
  - (a) the appropriate authority;
  - (b) the complainant;
  - (c) except in a case where it appears to the Commission that to do so might prejudice an investigation of the complaint (whether an existing investigation or a possible future one), the person complained against (if any).
- (4) Where an appropriate authority receives a notification under sub-paragraph (3) in respect of a complaint and the complaint has not yet been recorded, the appropriate authority must record the complaint.”
- (4) In paragraph 11 (recording etc of conduct matters otherwise than where conduct matters arise in civil proceedings), omit sub-paragraph (5).
- (5) In paragraph 13 (reference of conduct matters to the Commission), in sub-paragraph (7), in the words before paragraph (a), after “occasion” insert “, or that has been treated as having been so referred by virtue of paragraph 13A ”.
- (6) After paragraph 13 insert—

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### 13A “Power of Commission to treat conduct matter as having been referred

- (1) The Commission may treat a conduct matter that comes to its attention otherwise than by having been referred to it under paragraph 13 as having been so referred.
- (2) Where the Commission treats a conduct matter as having been referred to it—
  - (a) paragraphs 10, 11 and 13 do not apply, or cease to apply, in relation to the matter except to the extent provided for by paragraph 13(7), and
  - (b) paragraphs 14 and 15 apply in relation to the matter as if it had been referred to the Commission by the appropriate authority under paragraph 13.
- (3) The Commission must notify the following that it is treating a conduct matter as having been referred to it—
  - (a) the appropriate authority;
  - (b) except in a case where it appears to the Commission that to do so might prejudice an investigation of the matter (whether an existing investigation or a possible future one), the person to whose conduct the matter relates.
- (4) Where an appropriate authority receives a notification under sub-paragraph (3) in respect of a conduct matter and the matter has not yet been recorded, the appropriate authority must record the matter.”
- (7) In paragraph 14A (duty to record DSI matters), omit sub-paragraph (2).
- (8) In paragraph 14C (reference of DSI matters to the Commission), in sub-paragraph (3), after “occasion” insert “, or that has been treated as having been so referred by virtue of paragraph 14CA, ”.
- (9) After paragraph 14C insert—

### 14CA “Power of Commission to treat DSI matter as having been referred

- (1) The Commission may treat a DSI matter that comes to its attention otherwise than by having been referred to it under paragraph 14C as having been so referred.
- (2) Where the Commission treats a DSI matter as having been referred to it—
  - (a) paragraphs 14A and 14C do not apply, or cease to apply, in relation to the matter except to the extent provided for by paragraph 14C(3), and
  - (b) paragraphs 14D and 15 apply in relation to the matter as if it had been referred to the Commission by the appropriate authority under paragraph 14C.
- (3) The Commission must notify the appropriate authority that it is treating a DSI matter as having been referred to it.
- (4) Where an appropriate authority receives a notification under sub-paragraph (3) in respect of a DSI matter and the matter has not yet been recorded, the appropriate authority must record the matter.”

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- (10) In section 29 of the Police Reform Act 2002 (interpretation of Part 2 of that Act), in subsection (1), in paragraph (a) of the definition of “recordable conduct matter”, for “or 11” substitute “, 11 or 13A”.

**Commencement Information**

**I5** [S. 17](#) in force for specified purposes at Royal Assent, see [s. 183](#)

**18 IPCC power to require re-investigation**

- (1) In Part 2 of the Police Reform Act 2002 (complaints and misconduct), after section 13A (as inserted by section 13) insert—

**“13B Power of the Commission to require re-investigation**

- (1) This section applies where—
- (a) a report on an investigation of a complaint, recordable conduct matter or DSI matter carried out under the direction of the Commission has been submitted to it under paragraph 22(3) or 24A of Schedule 3, or
  - (b) a report on an investigation of a complaint, recordable conduct matter or DSI matter carried out by a person designated by the Commission has been submitted to it under paragraph 22(5) or 24A of Schedule 3.
- (2) The Commission may at any time determine that the complaint, recordable conduct matter or DSI matter is to be re-investigated if it is satisfied that there are compelling reasons for doing so.
- (3) Where the Commission makes a determination under subsection (2), it must determine that the re-investigation is to take the form of an investigation by the Commission unless subsection (4) applies, in which case the Commission must determine that the re-investigation is to take the form described in that subsection.
- (4) This subsection applies where the Commission determines that it would be more appropriate for the re-investigation to take the form of an investigation by the appropriate authority under the direction of the Commission.
- (5) Where—
- (a) the Commission determines under subsection (3) or (7) that a re-investigation is to take the form of an investigation by the Commission, and
  - (b) at any time after that the Commission determines that subsection (4) applies in relation to the re-investigation,
- the Commission may make a further determination under this section (to replace the earlier one) that the re-investigation is instead to take the form of an investigation by the appropriate authority under the direction of the Commission.
- (6) Where the Commission determines under subsection (3) or (5) that a re-investigation is to take the form of an investigation by the appropriate authority under the direction of the Commission, the Commission must keep



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under review whether subsection (4) continues to apply in relation to the re-investigation.

- (7) If, on such a review, the Commission determines that subsection (4) no longer applies in relation to a re-investigation, the Commission must make a further determination under this section (to replace the earlier one) that the re-investigation is instead to take the form of an investigation by the Commission.
  - (8) Sub-paragraphs (6) and (7) of paragraph 15 of Schedule 3 shall apply in relation to a further determination under subsection (5) or (7) as they apply in the case of a further determination under sub-paragraph (5A) or (5B) of that paragraph.
  - (9) The other provisions of Schedule 3 shall apply in relation to any re-investigation in pursuance of a determination under this section as they apply in relation to any investigation in pursuance of a determination under paragraph 15.
  - (10) The Commission shall notify the appropriate authority of any determination that it makes under this section and of its reasons for making the determination.
  - (11) The Commission shall also notify the following of any determination that it makes under this section and of its reasons for making the determination—
    - (a) every person entitled to be kept properly informed in relation to the complaint, recordable conduct matter or DSI matter (as the case may be) under section 21;
    - (b) where the determination is made in relation to a complaint, the complainant;
    - (c) the person to whose conduct the re-investigation will relate.
  - (12) The duty imposed by subsection (11) on the Commission shall have effect subject to such exceptions as may be provided for by regulations made by the Secretary of State.
  - (13) Subsections (6) to (8) of section 20 apply for the purposes of subsection (12) as they apply for the purposes of that section.
  - (14) In relation to a matter that was formerly a DSI matter but was recorded as a conduct matter in pursuance of paragraph 21A(5) of Schedule 3, the reference in subsection (10) to the appropriate authority is a reference to the appropriate authority in relation to the person whose conduct was in question.
  - (15) The reference to a report in subsection (1) includes a report on a re-investigation by virtue of this section or paragraph 25 of Schedule 3.”
- (2) Part 3 of Schedule 3 to the Police Reform Act 2002 (handling of complaints and conduct matters etc: investigations and subsequent proceedings) is amended as follows.
  - (3) In paragraph 23 (action by the Commission in response to an investigation report under paragraph 22), after sub-paragraph (1) insert—
    - “(1A) But if, following the submission of such a report, the Commission determines under section 13B that the complaint or recordable conduct matter is to be re-

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investigated the provisions of this paragraph other than sub-paragraph (2)(a) do not apply, or cease to apply, in relation to that report.”

(4) In paragraph 24A (final reports on investigations: DSI matters), after sub-paragraph (5) (as inserted by Schedule 5) insert—

“(6) But sub-paragraphs (4) and (5) and paragraphs 24B and 24C do not apply, or cease to apply, in relation to a report submitted under sub-paragraph (2) if, following the submission of the report, the Commission determines under section 13B that the DSI matter is to be re-investigated.”

(5) In paragraph 27 (duties with respect to disciplinary proceedings etc), after sub-paragraph (1) insert—

“(1A) But where this paragraph would otherwise apply by virtue of sub-paragraph (1)(c), it does not apply, or ceases to apply, in relation to the investigation if the Commission determines under section 13B that the DSI matter is to be re-investigated.”

(6) In paragraph 28B (response to recommendation by the Commission under paragraph 28A), at the end insert—

“(12) This paragraph does not apply, or ceases to apply, in relation to a recommendation made by virtue of paragraph 28A(1) if the Commission determines under section 13B that the complaint, recordable conduct matter or DSI matter that the Commission received a report on is to be re-investigated.”

#### **Commencement Information**

**I6** S. 18 in force for specified purposes at Royal Assent, see s. 183

## **19 Sensitive information received by IPCC: restriction on disclosure**

(1) Part 2 of the Police Reform Act 2002 (complaints and misconduct) is amended as follows.

(2) After section 21 insert—

### **“21A Restriction on disclosure of sensitive information**

(1) Where the Commission receives information within subsection (3), the Commission must not disclose (whether under section 11, 20 or 21 or otherwise) the information, or the fact that it has been received, unless the relevant authority consents to the disclosure.

(2) Where a person appointed under paragraph 18 of Schedule 3 to investigate a complaint or matter (a “paragraph 18 investigator”) receives information within subsection (3), the paragraph 18 investigator must not disclose the information, or the fact that it has been received, to any person other than the Commission unless the relevant authority consents to the disclosure.

(3) The information is—

- (a) intelligence service information;
- (b) protected information relating to a relevant warrant;

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- (c) information obtained from a government department which, at the time it is provided to the Commission or the paragraph 18 investigator, is identified by the department as information the disclosure of which may, in the opinion of the relevant authority—
- (i) cause damage to national security, international relations or the economic interests of the United Kingdom or any part of the United Kingdom, or
  - (ii) jeopardise the safety of any person.
- (4) Where the Commission or a paragraph 18 investigator discloses to another person information within subsection (3), or the fact that the Commission or the paragraph 18 investigator has received it, the other person must not disclose that information or that fact unless the relevant authority consents to the disclosure.
- (5) In this section—
- “government department” means a department of Her Majesty’s Government but does not include—
    - (a) the Security Service,
    - (b) the Secret Intelligence Service, or
    - (c) the Government Communications Headquarters (“GCHQ”);
  - “intelligence service information” means information that was obtained (directly or indirectly) from or that relates to—
    - (a) the Security Service,
    - (b) the Secret Intelligence Service,
    - (c) GCHQ, or
    - (d) any part of Her Majesty’s forces, or of the Ministry of Defence, which engages in intelligence activities;
  - “Minister of the Crown” includes the Treasury;
  - “paragraph 18 investigator” has the meaning given by subsection (2);
  - “protected information”, in relation to a relevant warrant, means information relating to any of the matters mentioned in section 57(4) of the Investigatory Powers Act 2016 in relation to the warrant;
  - “relevant authority” means—
    - (a) in the case of intelligence service information obtained (directly or indirectly) from or relating to the Security Service, the Director-General of the Security Service;
    - (b) in the case of intelligence service information obtained (directly or indirectly) from or relating to the Secret Intelligence Service, the Chief of the Secret Intelligence Service;
    - (c) in the case of intelligence service information obtained (directly or indirectly) from or relating to GCHQ, the Director of GCHQ;
    - (d) in the case of intelligence service information obtained (directly or indirectly) from or relating to Her Majesty’s forces or the Ministry of Defence, the Secretary of State;
    - (e) in the case of protected information relating to a relevant warrant, the person to whom the relevant warrant is or was addressed;
    - (f) in the case of information within subsection (3)(c)—

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- (i) the Secretary of State, or
- (ii) the Minister of the Crown in charge of the government department from which the information was obtained (if that Minister is not a Secretary of State);

“relevant warrant” means—

- (a) a warrant under Chapter 1 of Part 2 of the Investigatory Powers Act 2016, or
- (b) a warrant under Chapter 1 of Part 6 of that Act.

### **21B Provision of sensitive information to the Commission and certain investigators**

- (1) A person who provides information that is intelligence service information or protected information relating to a relevant warrant to the Commission or a paragraph 18 investigator (whether under a provision of this Part or otherwise) must—
  - (a) make the Commission or the paragraph 18 investigator aware that the information is intelligence service information or (as the case may be) protected information relating to a relevant warrant, and
  - (b) provide the Commission or the paragraph 18 investigator with such additional information as will enable the Commission or the paragraph 18 investigator to identify the relevant authority in relation to the information.
- (2) In this section, “intelligence service information”, “protected information relating to a relevant warrant”, “paragraph 18 investigator” and “relevant authority” have the same meaning as in section 21A.”
- (3) In Schedule 3 (handling of complaints and conduct matters etc), in Part 3 (investigations and subsequent proceedings)—
  - (a) omit paragraph 19ZD (sensitive information: restriction on further disclosure of information received under an information notice);
  - (b) in paragraph 22 (final reports on investigations: complaints, conduct matters and certain DSI matters)—
    - (i) after sub-paragraph (6) insert—
 

“(6A) Where a person would contravene section 21A by submitting, or (as the case may be) sending a copy of, a report in its entirety to the appropriate authority under sub-paragraph (2) or (3)(b), the person must instead submit, or send a copy of, the report after having removed or obscured the information which by virtue of section 21A the person must not disclose.”;
    - (ii) in sub-paragraph (8), at the end insert “ except so far as the person is prevented from doing so by section 21A ”;
  - (c) in paragraph 23 (action by the Commission in response to an investigation report under paragraph 22)—
    - (i) in sub-paragraph (1A) (as inserted by section 18), after “sub-paragraph (2)(a)” insert “ (read with sub-paragraph (2ZA)) ”;
    - (ii) after sub-paragraph (2) insert—

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- “(2ZA) Where the Commission would contravene section 21A by sending a copy of a report in its entirety to the appropriate authority under sub-paragraph (2)(a) or to the Director of Public Prosecutions under sub-paragraph (2)(c), the Commission must instead send a copy of the report after having removed or obscured the information which by virtue of section 21A the Commission must not disclose.”;
- (d) in paragraph 24A (final reports on investigations: other DSI matters), after sub-paragraph (3) insert—
- “(3A) Where a person would contravene section 21A by sending a copy of a report in its entirety to the appropriate authority under sub-paragraph (2)(b), the person must instead send a copy of the report after having removed or obscured the information which by virtue of section 21A the person must not disclose.”;
- (e) in paragraph 24B (action by the Commission in response to an investigation report under paragraph 24A), after sub-paragraph (1) insert—
- “(1A) Sub-paragraph (3A) of paragraph 24A applies for the purposes of sub-paragraph (1) of this paragraph as it applies for the purposes of sub-paragraph (2)(b) of that paragraph.”

#### Commencement Information

I7 [S. 19](#) in force for specified purposes at Royal Assent, see [s. 183](#)

## 20 Investigations by IPCC: powers of seizure and retention

- (1) In Schedule 3 to the Police Reform Act 2002 (handling of complaints and conduct matters etc), in Part 3 (investigations and subsequent proceedings), before paragraph 19A insert—

### “Investigations by the Commission: power of seizure

- 19ZE (1) The powers conferred by this paragraph are exercisable by a person—
- (a) who is designated under paragraph 19(2) in relation to an investigation (the “designated person”), and
  - (b) who is lawfully on any premises for the purposes of the investigation.
- (2) The designated person may seize anything which is on the premises if the designated person has reasonable grounds for believing—
- (a) that it is evidence relating to the conduct or other matter to which the investigation relates, and
  - (b) that it is necessary to seize it in order to prevent the evidence being concealed, lost, altered or destroyed.
- (3) The designated person may require any information which is stored in any electronic form and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible,

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or from which it can readily be produced in a visible and legible form, if the designated person has reasonable grounds for believing—

- (a) that it is evidence relating to the conduct or other matter to which the investigation relates, and
  - (b) that it is necessary to do so in order to prevent the evidence being concealed, lost, tampered with or destroyed.
- (4) The powers conferred by this paragraph do not authorise the seizure of an item which the designated person exercising the power has reasonable grounds for believing to be an item subject to legal privilege within the meaning of the 1984 Act (see section 10 of that Act).
- (5) Where a designated person has the power to seize a thing or require information to be produced under this paragraph and under section 19 of the 1984 Act (by virtue of section 97(8) of the 1996 Act or paragraph 19(4)), the designated person is to be treated for all purposes as acting in exercise of the power conferred by section 19 of the 1984 Act.
- (6) In this paragraph “premises” has the same meaning as in the 1984 Act (see section 23 of that Act).

#### **Further provision about seizure under paragraph 19ZE**

- 19ZF (1) This paragraph applies where a designated person seizes anything under paragraph 19ZE(2).
- (2) The designated person must provide a notice in relation to the thing seized if requested to do so by a person showing himself—
- (a) to be the occupier of the premises on which it was seized, or
  - (b) to have had custody or control of it immediately before the seizure.
- (3) The notice must state what has been seized and the reason for its seizure.
- (4) The notice must be provided within a reasonable time from the making of the request for it.
- (5) In this paragraph “designated person” has the same meaning as in paragraph 19ZE.

#### **Investigations by the Commission: power of retention**

- 19ZG (1) This paragraph applies to anything which, for the purposes of an investigation in accordance with paragraph 19—
- (a) has been seized under paragraph 19ZE(2) or taken away following a requirement imposed under paragraph 19ZE(3), or
  - (b) is otherwise lawfully in the possession of the Commission.
- (2) Anything to which this paragraph applies may be retained by the Commission for as long as is necessary in all the circumstances, including (amongst other things) so that it may be used as evidence in criminal or disciplinary proceedings or in an inquest held under Part 1 of the Coroners and Justice Act 2009.

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- (3) For the purposes of sub-paragraph (2), the retention of anything to which this paragraph applies is not necessary if having a photograph or copy of the thing would suffice (and the Commission may arrange for the thing to be photographed or copied before it ceases to be retained).

### **Further provision about things retained under paragraph 19ZG**

- 19ZH (1) This paragraph applies to anything which—
- (a) has been seized (whether under paragraph 19ZE(2) or otherwise), and
  - (b) is being retained by the Commission under paragraph 19ZG.
- (2) If a request for permission to be granted access to a thing to which this paragraph applies is made to the Commission by—
- (a) a person who had custody or control of the thing immediately before it was seized, or
  - (b) someone acting on behalf of such a person,
- the Commission must allow the person who made the request access to it under the supervision of a member of the Commission's staff.
- (3) Sub-paragraph (4) applies if a request for a photograph or copy of a thing to which this paragraph applies is made to the Commission by—
- (a) a person who had custody or control of the thing immediately before it was seized, or
  - (b) someone acting on behalf of such a person.
- (4) The Commission must either—
- (a) allow the person who made the request access to the thing under the supervision of a member of the Commission's staff for the purpose of photographing or copying it, or
  - (b) arrange for the thing to be photographed or copied.
- (5) If the Commission acts under sub-paragraph (4)(b), the Commission must supply the photograph or copy to the person who made the request within a reasonable time from the making of the request.
- (6) The Commission is not obliged to do anything in response to a request under sub-paragraph (2) or (3) if the Commission has reasonable grounds for believing that to do so would prejudice—
- (a) any investigation being carried out in accordance with this Schedule, or
  - (b) any criminal or disciplinary proceedings or any inquest held under Part 1 of the Coroners and Justice Act 2009.”

- (2) In section 21 of the Police and Criminal Evidence Act 1984 (access and copying), at the end insert—

“(10) The references to a constable in subsections (1) and (2) do not include a constable who has seized a thing under paragraph 19ZE of Schedule 3 to the Police Reform Act 2002.”

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**Commencement Information**

**18** S. 20 in force for specified purposes at Royal Assent, see s. 183

**21 References to England and Wales in connection with IPCC functions**

(1) In section 29 of the Police Reform Act 2002 (interpretation of Part 2), at the end insert—

“(8) References in sections 26, 26BA and 26C to England and Wales include the sea and other waters within the seaward limits of the territorial sea adjacent to England and Wales.”

(2) In section 28 of the Commissioners for Revenue and Customs Act 2005 (complaints and misconduct: England and Wales), in subsection (6), at the end insert “, including the sea and other waters within the seaward limits of the territorial sea adjacent to England and Wales ”.

(3) In section 41 of the Police and Justice Act 2006 (immigration and asylum enforcement functions and customs functions: complaints and misconduct), in subsection (7), at the end insert “, including the sea and other waters within the seaward limits of the territorial sea adjacent to England and Wales ”.

**Commencement Information**

**19** S. 21 in force for specified purposes at Royal Assent, see s. 183

**22 Oversight functions of local policing bodies**

(1) In section 1 of the Police Reform and Social Responsibility Act 2011 (police and crime commissioners), in subsection (8) (duty to hold chief constable to account), after paragraph (c) insert—

“(ca) the exercise of the chief constable's functions under Part 2 of the Police Reform Act 2002 in relation to the handling of complaints;”.

(2) In section 3 of that Act (Mayor's Office for Policing and Crime), in subsection (8) (duty to hold Commissioner of Police of the Metropolis to account), after paragraph (c) insert—

“(ca) the exercise of the Commissioner's functions under Part 2 of the Police Reform Act 2002 in relation to the handling of complaints;”.

(3) In section 6ZA of the Police Act 1996 (power to confer particular functions on the Common Council), in subsection (2), after paragraph (a) insert—

“(aa) to hold the Commissioner of Police for the City of London to account for the exercise of the Commissioner's functions under Part 2 of the Police Reform Act 2002 in relation to the handling of complaints;”.

**Commencement Information**

**110** S. 22 in force for specified purposes at Royal Assent, see s. 183



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## 23 Delegation of functions by local policing bodies

- (1) In section 23 of the Police Reform Act 2002 (Part 2 regulations), in subsection (2), after paragraph (p) insert—
  - “(pa) for local policing bodies to have power to delegate the exercise or performance of powers and duties conferred or imposed on them by or under this Part (including powers and duties that are acquired by virtue of giving a notice under section 13A);”.
- (2) In section 18 of the Police Reform and Social Responsibility Act 2011 (delegation of functions by police and crime commissioners), in subsection (3), after paragraph (a) insert—
  - “(aa) arrange, under subsection (1)(b) or (2), for the deputy police and crime commissioner or any other person to exercise a function that the police and crime commissioner has under or by virtue of Part 2 of the Police Reform Act 2002 (see instead section 23(2)(pa) of that Act and regulations made under that provision);”.
- (3) In section 19 of the Police Reform and Social Responsibility Act 2011 (delegation of functions by Mayor's Office for Policing and Crime), in subsection (3), after paragraph (a) insert—
  - “(aa) arrange, under subsection (1)(b) or (2), for the Deputy Mayor for Policing and Crime or any other person to exercise a function that the Mayor's Office for Policing and Crime has under or by virtue of Part 2 of the Police Reform Act 2002 (see instead section 23(2)(pa) of that Act and regulations made under that provision);”.
- (4) In section 107 of the Local Government Act 1972 (application of sections 101 to 106 of that Act to the Common Council)—
  - (a) in subsection (2), omit the words from the beginning to “and” in the first place it occurs;
  - (b) after subsection (2) insert—
    - “(2A) The Common Council may not, under section 101(1)(a), arrange for any person to exercise a function that the Common Council has under or by virtue of Part 2 of the Police Reform Act 2002 (see instead section 23(2)(pa) of that Act and regulations made under that provision).”

### Commencement Information

**111** S. 23 in force for specified purposes at Royal Assent, see s. 183

## 24 Transfer of staff to local policing bodies

- (1) A local policing body may make one or more schemes for the transfer to itself from the chief officer of police of the police force maintained by the local policing body of rights and liabilities under, or in connection with, a relevant contract of employment provided that the condition in subsection (2) is satisfied in relation to each such scheme.
- (2) The condition referred to in subsection (1) is that it is desirable to make the scheme to enable the local policing body to discharge functions that are, or are to be, conferred

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on it under or by virtue of the Police Reform Act 2002 as a result of the amendments of that Act made by section 13 of, and paragraph 39 of Schedule 5 to, this Act.

- (3) For the purposes of this section a contract of employment is a relevant contract of employment if it is a contract of employment of a member of the civilian staff of the police force (within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011) and the staff member is not designated under section 38 of the Police Reform Act 2002.
- (4) The local policing body must obtain the consent of the chief officer of police to the making of the scheme.
- (5) Where the chief officer of police does not consent to the making of the scheme, the local policing body may make the scheme notwithstanding subsection (4) if the Secretary of State consents to the making of the scheme.
- (6) A scheme under subsection (1) must make provision that has the same or similar effect as the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) (so far as those regulations do not apply in relation to the transfer).

#### **Commencement Information**

**I12** S. 24 in force for specified purposes at Royal Assent, see s. 183

## **CHAPTER 2**

### POLICE SUPER-COMPLAINTS

#### **25 Power to make super-complaints**

After Part 2 of the Police Reform Act 2002 (complaints and misconduct) insert—

#### **“PART 2A**

#### SUPER-COMPLAINTS

##### **29A Power to make super-complaints**

- (1) A designated body may make a complaint to Her Majesty's Chief Inspector of Constabulary that a feature, or combination of features, of policing in England and Wales by one or more than one police force is, or appears to be, significantly harming the interests of the public.
- (2) See section 29B for the meaning of “designated body”.
- (3) In this section-
  - “England and Wales” includes the adjacent United Kingdom waters within the meaning of section 30 of the Police Act 1996,
  - “police force” means any of the following—
    - (a) the metropolitan police force,

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- (b) a police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London),
- (c) the National Crime Agency,
- (d) the City of London police force,
- (e) the Ministry of Defence Police,
- (f) the Civil Nuclear Constabulary,
- (g) the British Transport Police.”

#### Commencement Information

**I13** [S. 25](#) in force for specified purposes at Royal Assent, see [s. 183](#)

## 26 Bodies who may make super-complaints

In Part 2A of the Police Reform Act 2002, after section 29A (for which see section 25 above), insert—

### “29B Bodies who may make super-complaints

- (1) In this Part “designated body” means a body designated in regulations made by the Secretary of State.
- (2) The Secretary of State—
  - (a) may make or revoke such a designation if the Secretary of State considers it appropriate to do so, and
  - (b) must make or revoke such a designation if asked to do so by an authorised person.
- (3) The Secretary of State must, in deciding whether to act under subsection (2)
  - (a), apply criteria specified or described in regulations made by the Secretary of State.
- (4) The authorised person must, in deciding whether to ask the Secretary of State to act under subsection (2)(b), apply criteria specified or described in regulations made by the Secretary of State.
- (5) The Secretary of State must, before making regulations under subsection (3) or (4), consult such persons as the Secretary of State considers appropriate.
- (6) In this section “authorised person” means any person specified or described in regulations made by the Secretary of State.”

#### Commencement Information

**I14** [S. 26](#) in force for specified purposes at Royal Assent, see [s. 183](#)

## 27 Regulations about super-complaints

- (1) In Part 2A of the Police Reform Act 2002, after section 29B (for which see section 26 above), insert—

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### **“29C Regulations about super-complaints**

- (1) The Secretary of State may by regulations make provision about complaints under section 29A.
- (2) Such provision may, in particular, include provision about—
  - (a) the procedure for dealing with a matter before a complaint is made under section 29A (including who is to deal with the matter),
  - (b) the procedure for dealing with a complaint under section 29A (including who is to deal with the matter),
  - (c) whether, or the extent to which, a matter is to be dealt with under this Part or Part 2.
- (3) Regulations under this section may—
  - (a) confer (or enable the conferring of) functions on Her Majesty's Chief Inspector of Constabulary, the Independent Police Complaints Commission, the College of Policing or any other person,
  - (b) apply (with or without modifications), in relation to any matter to be dealt with by the Independent Police Complaints Commission under this Part, any provision made by or under Part 2.”
- (2) After section 10(3) of that Act (general functions of the Commission) insert—
 

“(3A) The Commission also has any functions conferred on it by regulations under section 29C of this Act (regulations about super-complaints).”

#### **Commencement Information**

**I15** S. 27 in force for specified purposes at Royal Assent, see s. 183

## **CHAPTER 3**

### **WHISTLE-BLOWING: POWER OF IPCC TO INVESTIGATE**

#### **28 Investigations by the IPCC: whistle-blowing**

- (1) After Part 2A of the Police Reform Act 2002 (for which see sections 25 to 27 above) insert—

#### **“PART 2B**

#### **INVESTIGATION OF CONCERNS RAISED BY WHISTLE-BLOWERS**

##### **29D Power to investigate concerns raised by whistle-blowers**

- (1) The Commission may investigate any concern raised by a whistle-blower of which it becomes aware (whether because the whistle-blower has contacted the Commission or for any other reason) but only if the whistle-blower

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informs the Commission, before the beginning of the investigation, that he or she consents to an investigation taking place.

- (2) In deciding whether to investigate, the Commission must take into account the public interest.
- (3) For the purposes of this Part, a person is a “whistle-blower” if—
  - (a) the person is, or was at any time, under the direction and control of a chief officer of police,
  - (b) the person raises a concern that is about a police force or a person serving with the police,
  - (c) the matter to which the concern relates is not—
    - (i) about the conditions of service of persons serving with the police, or
    - (ii) a matter that is, or could be, the subject of a complaint by the person under Part 2, and
  - (d) at the time the Commission first becomes aware of the concern, the matter to which it relates is not—
    - (i) under investigation under the direction of the Commission in accordance with paragraph 18 of Schedule 3,
    - (ii) under investigation by the Commission in accordance with paragraph 19 of that Schedule,
    - (iii) being dealt with as a complaint under section 29A under regulations under section 29C (regulations about super-complaints), or
    - (iv) under investigation under this Part.
- (4) Subsection (1) is subject to section 29F (which deals with the position where the concern is a conduct matter for the purposes of Part 2) and to section 29G (which deals with the position where the concern is a DSI matter for the purposes of that Part).
- (5) Schedule 3A (which makes provision about the procedure etc where the Commission decides to investigate under subsection (1)) has effect.

#### **29E Commission's powers and duties where it decides not to investigate**

- (1) If the Commission decides not to carry out an investigation under section 29D(1), the Commission must inform the whistle-blower of the decision.
- (2) In such a case, the Commission may, with the consent of the whistle-blower—
  - (a) disclose the nature of the concern to the appropriate authority, and
  - (b) make recommendations in the light of the concern.
- (3) In this Part, except where otherwise provided, “appropriate authority” means—
  - (a) if the concern relates to a chief officer or an acting chief officer, the local policing body for the area of the police force of which he or she is a member;
  - (b) if the concern relates to any other person, the chief officer under whose direction and control that person is;

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- (c) if the concern does not relate to any particular persons, the chief officer of the police force to which the concern relates.
- (4) The Secretary of State may by regulations make further provision about recommendations under subsection (2).
- (5) The regulations may (amongst other things)—
  - (a) describe the kinds of recommendations that the Commission may make under subsection (2);
  - (b) specify the persons to whom the recommendations may be made;
  - (c) authorise the Commission to require a response to any recommendation made by the Commission under subsection (2).

#### 29F **Special provision for “conduct matters”**

- (1) Before deciding whether to carry out an investigation under section 29D(1), the Commission must consider whether the concern is about a conduct matter for the purposes of Part 2 (see section 12(2)).
- (2) If the Commission determines that the concern is about a conduct matter for the purposes of Part 2—
  - (a) it may not carry out an investigation under section 29D(1), and
  - (b) it must notify the appropriate authority in relation to the person whose conduct is in question of its determination.
- (3) Where the appropriate authority in relation to the person whose conduct is in question is notified under subsection (2), it must record the matter under paragraph 11 of Schedule 3 to this Act as a conduct matter.
- (4) The Secretary of State may by regulations make provision modifying Schedule 3 in relation to a conduct matter that, in accordance with subsection (3), is recorded under paragraph 11 of that Schedule but only for the purpose of making provision for the protection of the anonymity of whistle-blowers.

#### 29G **Special provision for “DSI matters”**

- (1) Before deciding whether to carry out an investigation under section 29D(1), the Commission must consider whether the concern is about a death or serious injury matter (“a DSI matter”) for the purposes of Part 2 (see section 12(2A)).
- (2) If the Commission determines that the concern is about a DSI matter for the purposes of Part 2—
  - (a) it may not carry out an investigation under section 29D(1), and
  - (b) it must notify the appropriate authority in relation to the DSI matter.
- (3) Where the appropriate authority in relation to the DSI matter is notified under subsection (2), it must record the matter under paragraph 14A of Schedule 3 to this Act as a DSI matter.
- (4) The Secretary of State may by regulations make provision modifying Schedule 3 in relation to a DSI matter that, in accordance with subsection (3), is recorded under paragraph 14A of that Schedule but only for the purpose of making provision for the protection of the anonymity of whistle-blowers.

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- (5) In this section, references to the appropriate authority in relation to a DSI matter have the same meaning as in Part 2 (see section 29).

#### **29H Commission's powers and duties where whistle-blower is deceased**

- (1) The power of the Commission to carry out an investigation under section 29D(1) applies where the whistle-blower dies before the Commission becomes aware of the concern (or before it decides to investigate).
- (2) Any investigation begun by the Commission under section 29D(1) before the death of the whistle-blower may be continued after the death.
- (3) Where a whistle-blower dies—
  - (a) any requirement under this Part to obtain the consent of the whistle-blower may be satisfied by obtaining the consent of that person's approved representative;
  - (b) any requirement under this Part to give any document or other information to the whistle-blower may be satisfied by giving the document or other information to the person's approved representative;
  - (c) any requirement under this Part not to disclose the identity of the whistle-blower does not apply or (where the Commission became aware of the concern before the death) ceases to apply.
- (4) For the purpose of this section, “approved representative” means a person who has been approved by the Commission for the purposes of this Part.
- (5) The Commission may only approve a person who is—
  - (a) the widow or widower (or surviving civil partner) of the deceased whistle-blower,
  - (b) a personal representative (within the meaning of section 55(1)(xi) of the Administration of Estates Act 1925) of the deceased whistle-blower, or
  - (c) any other person appearing to the Commission to have, by reason of a family or similar relationship with the deceased whistle-blower, a relevant interest in the outcome of the concern.

#### **29I Duty to keep whistle-blowers informed**

- (1) Where the Commission carries out an investigation under section 29D(1), it must keep the whistle-blower properly informed about the progress of the investigation and its outcome.
- (2) The Secretary of State may by regulations provide for exceptions to the duty under subsection (1).
- (3) The power conferred by subsection (2) may be exercised only to the extent that the Secretary of State considers necessary for any of the permitted non-disclosure purposes.
- (4) “The permitted non-disclosure purposes” are—

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- (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 it has been determined in accordance with the regulations that 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 for the purposes of the investigation of an allegation of misconduct against the whistle-blower or the taking of disciplinary proceedings or other appropriate action in relation to such an allegation,
    - (iv) is for the purposes of an investigation under Part 2 that relates to the whistle-blower,
    - (v) is required on proportionality grounds, or
    - (vi) is otherwise necessary in the public interest.
- (5) The non-disclosure of information is required on proportionality grounds if its disclosure would cause, directly or indirectly, an adverse effect which would be disproportionate to the benefits arising from its disclosure.

#### 29J **Protection of anonymity of whistle-blowers**

- (1) The Secretary of State may by regulations make provision setting out the circumstances in which the Commission is required or authorised to disclose information falling within subsection (2) (or any particular description of such information) to persons specified, or of a description specified, in the regulations.
- (2) The information falling within this subsection is—
  - (a) the identity of a whistle-blower or information that might (whether alone or with other information) tend to reveal that identity;
  - (b) the nature of a concern raised by a whistle-blower.
- (3) The power conferred by subsection (1) may be exercised only to the extent that the Secretary of State considers necessary for any of the permitted disclosure purposes.
- (4) “The permitted disclosure purposes” are—
  - (a) the protection of the interests of national security;
  - (b) the prevention or detection of crime or the apprehension of offenders;
  - (c) the institution or conduct of criminal proceedings;
  - (d) the investigation of allegations of misconduct against whistle-blowers and the taking of disciplinary proceedings or other appropriate action in relation to such allegations;
  - (e) investigations under Part 2 that relate to whistle-blowers;
  - (f) investigations under this Part;
  - (g) any other purpose that is for the protection of the public interest.



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- (5) Except as provided by regulations under subsection (1) or by any other provision of this Part, the Commission may not disclose information falling within subsection (2) unless the whistle-blower consents to the disclosure.

#### **29K Other restrictions on disclosure of information**

- (1) The Secretary of State may by regulations make provision setting out the circumstances in which the Commission is required or authorised to disclose information falling within subsection (2) (or any particular description of such information) to persons specified, or of a description specified, in the regulations.
- (2) The information falling within this subsection is—
- (a) information relating to an investigation under section 29D;
  - (b) information relating to the outcome of any such investigation.
- (3) The power conferred by subsection (1) may be exercised only to the extent that the Secretary of State considers necessary for any of the permitted disclosure purposes.
- (4) In this section, “the permitted disclosure purposes” has the same meaning as in section 29J.
- (5) Except as provided by regulations under subsection (1) or by any other provision of this Part, the Commission may not disclose information falling within subsection (2).

#### **29L Application of provisions of Part 2**

- (1) The following provisions of Part 2 apply in relation to the functions of the Commission under this Part as they apply in relation to the functions of the Commission under Part 2—
- (a) section 15 (general duties of local policing bodies, chief officers and inspectors);
  - (b) section 16 (payment for assistance with investigation);
  - (c) section 17 (provision of information to the Commission);
  - (d) section 18 (inspection of police premises on behalf of the Commission);
  - (e) section 19 (use of investigatory powers by or on behalf of the Commission);
  - (f) section 21A (restriction on disclosure of sensitive information);
  - (g) section 21B (provision of sensitive information to the Commission);
  - (h) section 22 (power of the Commission to issue guidance);
  - (i) section 26 (forces maintained otherwise than by local policing bodies);
  - (j) section 26BA (College of Policing);
  - (k) section 26C (the National Crime Agency).
- (2) Except as provided by subsection (1), the provision made by sections 15 to 29 of Part 2 does not apply in relation to the functions of the Commission under this Part.

*Status: Point in time view as at 02/05/2017.*

*Changes to legislation: Policing and Crime Act 2017, Part 2 is up to date with all changes known to be in force on or before 16 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)*

## 29M Regulation-making powers: consultation

Before making regulations under this Part, the Secretary of State must consult—

- (a) the Commission,
- (b) such persons as appear to the Secretary of State to represent the views of police and crime commissioners,
- (c) the Mayor's Office for Policing and Crime;
- (d) the Common Council,
- (e) the National Police Chiefs' Council, and
- (f) such other persons as the Secretary of State thinks fit.

## 29N Interpretation

(1) In this Part—

“the Commission” means the Independent Police Complaints Commission;

“appropriate authority” has the meaning given by section 29E(3);

“chief officer” means the chief officer of police of any police force; and “acting chief officer” means (as appropriate)—

- (a) a person exercising or performing functions of a chief constable in accordance with section 41 of the Police Reform and Social Responsibility Act 2011,
- (b) a person exercising powers or duties of the Commissioner of Police of the Metropolis in accordance with section 44 or 45(4) of that Act, or
- (c) a person exercising duties of the Commissioner of Police for the City of London in accordance with section 25 of the City of London Police Act 1839;

“conduct” has the same meaning as in Part 2 (see section 29(1));

“whistle-blower” has the meaning given by section 29D(3).

(2) References in this Part to a person serving with the police have the same meaning as in Part 2 (see section 12(7)).”

(2) After Schedule 3 to the Police Reform Act 2002 insert the new Schedule 3A set out in Schedule 6 to this Act.

(3) In section 10 of that Act, after subsection (3A) (for which see section 27 above), insert—

“(3B) The Commission also has the functions which are conferred on it by Part 2B (whistle-blowing).”

(4) In section 105 of that Act, in subsection (5), after “Part 2” insert “ or 2B ”.

(5) In section 63 of the Police Act 1996 (Police Advisory Board for England and Wales), in subsection (3)(b), after “Part 2” insert “ or 2B ”.

*Status: Point in time view as at 02/05/2017.*

*Changes to legislation: Policing and Crime Act 2017, Part 2 is up to date with all changes known to be in force on or before 16 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)*

#### Commencement Information

**I16** S. 28 in force for specified purposes at Royal Assent, see s. 183

## CHAPTER 4

### POLICE DISCIPLINE

#### 29 Disciplinary proceedings: former members of police forces and former special constables

- (1) The Police Act 1996 is amended as follows.
- (2) In section 50 (regulations for police forces), after subsection (3) (regulations concerning disciplinary proceedings) insert—
  - “(3A) Regulations under this section may provide for the procedures that are established by or under regulations made by virtue of subsection (3) to apply (with or without modifications) in respect of the conduct, efficiency or effectiveness of any person where—
    - (a) an allegation relating to the conduct, efficiency or effectiveness of the person comes to the attention of a chief officer of police, a local policing body or the Independent Police Complaints Commission,
    - (b) at the time of the alleged misconduct, inefficiency or ineffectiveness the person was a member of a police force, and
    - (c) condition A, B or C is satisfied in relation to the person.
  - (3B) Condition A is that the person ceases to be a member of a police force after the allegation first comes to the attention of a person mentioned in subsection (3A)(a).
  - (3C) Condition B is that the person had ceased to be a member of a police force before the allegation first came to the attention of a person mentioned in subsection (3A)(a) but the period between the person having ceased to be a member of a police force and the allegation first coming to the attention of a person mentioned in subsection (3A)(a) does not exceed the period specified in regulations under this section.
  - (3D) Condition C is that—
    - (a) the person had ceased to be a member of a police force before the allegation first came to the attention of a person mentioned in subsection (3A)(a),
    - (b) the period between the person having ceased to be a member of a police force and the allegation first coming to the attention of a person mentioned in subsection (3A)(a) exceeds the period specified for the purposes of condition B, and
    - (c) the alleged misconduct, inefficiency or ineffectiveness is such that, if proved, the person could have been dealt with by dismissal if the person had still been a member of a police force.

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*Status: Point in time view as at 02/05/2017.*

*Changes to legislation: Policing and Crime Act 2017, Part 2 is up to date with all changes known to be in force on or before 16 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)*

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- (3E) Regulations made by virtue of subsection (3A) as they apply in a case where condition C is satisfied in relation to a person must provide that disciplinary proceedings may be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness only if the Independent Police Complaints Commission determines that taking such proceedings would be reasonable and proportionate having regard to—
- (a) the seriousness of the alleged misconduct, inefficiency or ineffectiveness,
  - (b) the impact of the allegation on public confidence in the police, and
  - (c) the public interest.

- (3F) Regulations made by virtue of subsection (3A) may make provision about matters to be taken into account by the Independent Police Complaints Commission for the purposes of subsection (3E)(a) to (c).

- (3G) Regulations made by virtue of subsection (3A) must provide that disciplinary proceedings which are not the first disciplinary proceedings to be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness may be taken only if they result from a re-investigation of the allegation (whether carried out under regulations under this section or under the Police Reform Act 2002) that begins within the period specified in the regulations.

The period specified must begin with the date when the person ceased to be a member of a police force.”

- (3) In section 51 (regulations for special constables), after subsection (2A) (regulations concerning disciplinary proceedings) insert—

“(2B) Regulations under this section may provide for the procedures that are established by or under regulations made by virtue of subsection (2A) to apply (with or without modifications) in respect of the conduct, efficiency or effectiveness of any person where—

- (a) an allegation relating to the conduct, efficiency or effectiveness of the person comes to the attention of a chief officer of police, a local policing body or the Independent Police Complaints Commission,
- (b) at the time of the alleged misconduct, inefficiency or ineffectiveness the person was a special constable, and
- (c) condition A, B or C is satisfied in relation to the person.

- (2C) Condition A is that the person ceases to be a special constable after the allegation first comes to the attention of a person mentioned in subsection (2B) (a).

- (2D) Condition B is that the person had ceased to be a special constable before the allegation first came to the attention of a person mentioned in subsection (2B) (a) but the period between the person having ceased to be a special constable and the allegation first coming to the attention of a person mentioned in subsection (2B)(a) does not exceed the period specified in regulations under this section.

- (2E) Condition C is that—

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*Status: Point in time view as at 02/05/2017.*

*Changes to legislation: Policing and Crime Act 2017, Part 2 is up to date with all changes known to be in force on or before 16 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)*

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- (a) the person had ceased to be a special constable before the allegation first came to the attention of a person mentioned in subsection (2B) (a),
  - (b) the period between the person having ceased to be a special constable and the allegation first coming to the attention of a person mentioned in subsection (2B)(a) exceeds the period specified for the purposes of condition B, and
  - (c) the alleged misconduct, inefficiency or ineffectiveness is such that, if proved, the person could have been dealt with by dismissal if the person had still been a special constable.
- (2F) Regulations made by virtue of subsection (2B) as they apply in a case where condition C is satisfied in relation to a person must provide that disciplinary proceedings may be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness only if the Independent Police Complaints Commission determines that taking such proceedings would be reasonable and proportionate having regard to—
- (a) the seriousness of the alleged misconduct, inefficiency or ineffectiveness,
  - (b) the impact of the allegation on public confidence in the police, and
  - (c) the public interest.
- (2G) Regulations made by virtue of subsection (2B) may make provision about matters to be taken into account by the Independent Police Complaints Commission for the purposes of subsection (2F)(a) to (c).
- (2H) Regulations made by virtue of subsection (2B) must provide that disciplinary proceedings which are not the first disciplinary proceedings to be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness may be taken only if they result from a re-investigation of the allegation (whether carried out under regulations under this section or under the Police Reform Act 2002) that begins within the period specified in the regulations.

The period specified must begin with the date when the person ceased to be a special constable.”

- (4) In section 84 (representation etc at disciplinary and other proceedings)—
- (a) in subsection (1)—
    - (i) after “50(3)” insert “ or (3A) ”;
    - (ii) after “51(2A)” insert “ or (2B) ”;
  - (b) in subsection (4)—
    - (i) in the definition of “the officer concerned”, after “constable” insert “ or, as the case may be, the former member of a police force or the former special constable, ”;
    - (ii) in the definition of “relevant authority”, after “authority” insert “ , in relation to proceedings conducted under regulations made in pursuance of section 50(3) or section 51(2A), ”;
    - (iii) after the definition of “relevant authority” insert—
      - ““relevant authority”, in relation to proceedings conducted under regulations made in pursuance of section 50(3A) or section 51(2B), means—

*Status: Point in time view as at 02/05/2017.*

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- (a) where the officer concerned is a former member of a police force (other than a former chief officer of police), or a former special constable, the chief officer of police of the police force of which the officer was last a member, or for which the officer was last appointed as a special constable;
  - (b) where the officer concerned is a former chief officer of police, the local policing body for the police force of which the officer was last a member;”.
- (5) In section 85 (appeals against dismissal etc), in subsection (1), after “constable” insert “, or a former member of a police force or a former special constable, ”.
- (6) In Schedule 6 (appeals to Police Appeals Tribunals), in paragraph 10—
- (a) in paragraph (b), before “means” insert “, except in relation to an appeal under section 85 that relates to proceedings conducted under regulations made in pursuance of section 50(3A) or section 51(2B), ”;
  - (b) after paragraph (b) insert—
    - “(ba) the relevant local policing body”, in relation to an appeal under section 85 that relates to proceedings conducted under regulations made in pursuance of section 50(3A) or section 51(2B), means the local policing body which maintains—
      - (i) the police force of which the appellant was last a member, or
      - (ii) the police force for the area for which the appellant was last appointed as a special constable,
 as the case may be.”
- (7) Regulations made in pursuance of section 50(3A) or 51(2B) of the Police Act 1996 (as inserted by subsections (2) and (3))—
- (a) may not make provision in relation to a person who ceases to be a member of a police force or a special constable (as the case may be) before the coming into force of subsections (2) and (3);
  - (b) may make provision in relation to a person who ceases to be a member of a police force or a special constable (as the case may be) after the coming into force of this section even though the alleged misconduct, inefficiency or ineffectiveness occurred at a time before the coming into force of subsections (2) and (3), but only if the alleged misconduct, inefficiency or ineffectiveness is such that, if proved, there could be a finding in relation to the person in disciplinary proceedings that the person would have been dismissed if the person had still been a member of a police force or a special constable.
- (8) Schedule 7 makes amendments of the Ministry of Defence Police Act 1987, the Railways and Transport Safety Act 2003 and the Energy Act 2004 which produce an equivalent effect to the amendments made by this section.

**Commencement Information**

**I17** S. 29 in force for specified purposes at Royal Assent, see s. 183

*Status: Point in time view as at 02/05/2017.*

*Changes to legislation: Policing and Crime Act 2017, Part 2 is up to date with all changes known to be in force on or before 16 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)*

### 30 Police barred list and police advisory list

- (1) After Part 4 of the Police Act 1996, insert the Part set out in Schedule 8 to this Act.
- (2) In consequence of the new Part 4A of the Police Act 1996 (as inserted by Schedule 8), the Police Reform and Social Responsibility Act 2011 is amended as follows.
- (3) In section 42 (appointment of Commissioner of Police of the Metropolis), after subsection (3A) insert—
  - “(3AA) But a person who would be eligible for appointment by virtue of subsection (3A) is not eligible for appointment at a time when the person is included in the police barred list maintained under section 88B of the Police Act 1996.”
- (4) In section 43 (Deputy Commissioner of Police of the Metropolis), after subsection (3) insert—
  - “(3A) The Secretary of State may not recommend to Her Majesty that She appoint a person as the Deputy Commissioner of Police of the Metropolis unless that person is eligible for appointment.
  - (3B) A person is not eligible for appointment at a time when the person is included in the police barred list maintained under section 88B of the Police Act 1996.”
- (5) In Part 1 of Schedule 8 (appointment of Chief Constables), in paragraph 1—
  - (a) the existing text becomes sub-paragraph (1);
  - (b) after that sub-paragraph insert—
    - “(2) The police and crime commissioner also has duties under section 88C of the Police Act 1996 (effect of inclusion in police barred list) in relation to the appointment of a chief constable.”
- (6) The Secretary of State may by regulations made by statutory instrument make provision that—
  - (a) corresponds or is similar to that made by or under Part 4A of the Police Act 1996 (as inserted by Schedule 8), and
  - (b) relates to a person who is, or has been, employed or appointed by a person with functions of a public nature exercisable in, or in relation to, England and Wales that relate to policing or law enforcement (other than a chief officer of police or a local policing body, within the meaning of the Police Act 1996).
- (7) A statutory instrument containing regulations under subsection (6) is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Commencement Information

**I18** S. 30 in force for specified purposes at Royal Assent, see s. 183

### 31 Appeals to Police Appeals Tribunals

- (1) Schedule 6 to the Police Act 1996 (appeals to Police Appeals Tribunals) is amended as follows.

*Status: Point in time view as at 02/05/2017.*

*Changes to legislation: Policing and Crime Act 2017, Part 2 is up to date with all changes known to be in force on or before 16 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)*

- (2) In paragraph 1 (appeal by a senior officer), in sub-paragraph (1), in the words before paragraph (a), for “Secretary of State” substitute “relevant person”.
- (3) In paragraph 2 (appeal by a member of a police force other than a senior officer or by a special constable), in sub-paragraph (1)—
- (a) in the words before paragraph (a), for “relevant local policing body” substitute “relevant person”;
  - (b) omit paragraph (d);
  - (c) at the end insert—
    - “(e) one shall be a lay person.”
- (4) After paragraph 2 insert—

- “2A
- (1) For the purposes of paragraphs 1 and 2, “the relevant person” means the person determined in accordance with rules made by the Secretary of State.
  - (2) Rules under sub-paragraph (1) may make—
    - (a) different provision for different cases and circumstances;
    - (b) provision for the relevant person to be able to delegate the power to appoint the members of a tribunal.
  - (3) A statutory instrument containing rules under sub-paragraph (1) is subject to annulment in pursuance of a resolution of either House of Parliament.”

- (5) In paragraph 10 (interpretation)—
- (a) after paragraph (a) insert—
    - “(aa) lay person” means a person who is not, and has never been—
      - (i) a member of a police force or a special constable,
      - (ii) a member of the civilian staff of a police force, including the metropolitan police force, within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011 (see section 102(4) and (6) of that Act),
      - (iii) a person employed by the Common Council of the City of London in its capacity as police authority who is under the direction and control of the Commissioner of Police for the City of London,
      - (iv) a police and crime commissioner,
      - (v) a member of staff of a police and crime commissioner, or of the Mayor's Office for Policing and Crime, within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011 (see section 102(3) and (5) of that Act),
      - (vi) a constable within the meaning of Part 1 of the Police and Fire Reform (Scotland) Act 2012 (2012 asp 8) (see section 99 of that Act),
      - (vii) a member of the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve,



*Status: Point in time view as at 02/05/2017.*

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- (viii) a member of the British Transport Police Force or a special constable appointed under section 25 of the Railways and Transport Safety Act 2003,
  - (ix) an employee of the British Transport Police Authority appointed under section 27 of the Railways and Transport Safety Act 2003,
  - (x) a member of the Ministry of Defence Police,
  - (xi) a person (other than a member of the Ministry of Defence Police) who is under the direction and control of the chief constable for the Ministry of Defence Police,
  - (xii) a member of the Civil Nuclear Constabulary, or
  - (xiii) an employee of the Civil Nuclear Police Authority appointed under paragraph 6 of Schedule 10 to the Energy Act 2004,”;
- (b) omit sub-paragraph (c).
- (6) In consequence of the other provision made by this section—
- (a) in the Criminal Justice and Immigration Act 2008, in Part 1 of Schedule 22, omit paragraph 11(6)(b);
  - (b) in the Police Reform and Social Responsibility Act 2011, in Part 1 of Schedule 16, omit paragraph 47(2)(b).

#### **Commencement Information**

**I19** S. 31 in force for specified purposes at Royal Assent, see s. 183

## **32 Guidance concerning disciplinary proceedings and conduct etc**

- (1) Section 87 of the Police Act 1996 (guidance concerning disciplinary proceedings etc) is amended as follows.
- (2) For subsections (1) to (1A) substitute—
- “(1) The Secretary of State may issue guidance as to the discharge of their disciplinary functions to—
- (a) local policing bodies,
  - (b) chief officers of police,
  - (c) other members of police forces,
  - (d) civilian police employees, and
  - (e) the Independent Police Complaints Commission.”
- (3) Before subsection (2) insert—
- “(1B) The College of Policing may, with the approval of the Secretary of State, issue guidance to the persons mentioned in subsection (1)(a) to (c) as to the discharge of their disciplinary functions in relation to members of police forces and special constables and former members of police forces and former special constables.”
- (4) After subsection (4) insert—

*Status: Point in time view as at 02/05/2017.*

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“(4A) In this section “disciplinary functions” means—

- (a) functions in relation to the conduct, efficiency and effectiveness of, and the maintenance of discipline of, the following persons (including functions in relation to disciplinary proceedings)—
  - (i) members of police forces;
  - (ii) special constables;
  - (iii) civilian police employees;
- (b) functions in relation to disciplinary proceedings against persons who were, but have ceased to be, persons falling within paragraph (a).”

(5) For subsection (5) substitute—

“(5) In this section—

“civilian police employee” means—

- (a) a member of the civilian staff of a police force, including the metropolitan police force (within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011), or
- (b) a person employed by the Common Council of the City of London in its capacity as police authority who is under the direction and control of the Commissioner of Police for the City of London;

“disciplinary proceedings” —

- (a) in relation to a member of a police force or a special constable, or a former member of a police force or a former special constable, means any proceedings under regulations under section 50 or 51 that are identified as disciplinary proceedings by those regulations;
- (b) in relation to any other person, means any proceedings identified as disciplinary proceedings by regulations made by the Secretary of State for the purposes of this section.”

(6) After subsection (5) insert—

“(6) A statutory instrument containing regulations under paragraph (b) of the definition of “disciplinary proceedings” in subsection (5) is subject to annulment in pursuance of a resolution of either House of Parliament.”

(7) After section 87 of the Police Act 1996 insert—

**“87A Guidance concerning conduct etc**

- (1) The Secretary of State may issue guidance as to matters of conduct, efficiency and effectiveness to—
  - (a) members of police forces,
  - (b) special constables, and
  - (c) civilian police employees.
- (2) The College of Policing may, with the approval of the Secretary of State, issue guidance of the type described in subsection (1) to the persons mentioned in paragraphs (a) and (b) of that subsection.

*Status: Point in time view as at 02/05/2017.*

*Changes to legislation: Policing and Crime Act 2017, Part 2 is up to date with all changes known to be in force on or before 16 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)*

- (3) It shall be the duty of every person to whom any guidance under this section is issued to have regard to the guidance.
- (4) A failure by a person to whom guidance under this section is issued to have regard to the guidance shall be admissible in evidence in any disciplinary proceedings brought against the person.
- (5) In this section “civilian police employees” and “disciplinary proceedings” have the same meaning as in section 87.”

#### Commencement Information

**I20** S. 32 in force for specified purposes at Royal Assent, see s. 183

## CHAPTER 5

### IPCC: RE-NAMING AND ORGANISATIONAL CHANGE

#### 33 Independent Office for Police Conduct

- (1) The body corporate known as the Independent Police Complaints Commission—
  - (a) is to continue to exist, and
  - (b) is to be known instead as the Independent Office for Police Conduct.
- (2) Section 9 of the Police Reform Act 2002 (which established the Independent Police Complaints Commission) is amended in accordance with subsections (3) to (8).
- (3) For the heading substitute “ The Independent Office for Police Conduct ”.
- (4) For subsection (1) substitute—

“(1) The body corporate previously known as the Independent Police Complaints Commission—

  - (a) is to continue to exist, and
  - (b) is to be known instead as the Independent Office for Police Conduct.”
- (5) For subsection (2) substitute—

“(2) The Office is to consist of—

  - (a) a Director General appointed by Her Majesty, and
  - (b) at least six other members.

(2A) The other members must consist of—

  - (a) persons appointed as non-executive members (see paragraph 1A of Schedule 2), and
  - (b) persons appointed as employee members (see paragraph 1B of that Schedule),

but the powers of appointment under those paragraphs must be exercised so as to secure that a majority of members of the Office (including the Director General) are non-executive members.”
- (6) In subsection (3)—

*Status: Point in time view as at 02/05/2017.*

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- (a) for “chairman of the Commission” substitute “ Director General ”;
  - (b) omit “, or as another member of the Commission,”.
- (7) In subsection (5)—
- (a) for “The Commission shall not—” substitute “ Neither the Office nor the Director General shall— ”;
  - (b) for “Commission's” substitute “Office's”.
- (8) In subsection (6) for “Commission” substitute “ Office ”.
- (9) Schedule 9 makes further provision in relation to the Independent Office for Police Conduct.

#### **Commencement Information**

**I21** S. 33 in force for specified purposes at Royal Assent, see s. 183

### **34 Exercise of functions**

- (1) Section 10 of the Police Reform Act 2002 (general functions of the Commission) is amended in accordance with subsections (2) to (5) (see also paragraph 17 of Schedule 9 for further minor and consequential amendments).
- (2) For “Commission”, in each place except as otherwise provided by subsection (5) (including in the heading and in provisions inserted by amendments made by this Act), substitute “ Director General ”.
- (3) In subsection (2)—
- (a) in paragraph (a), at the end insert “ or other concerns raised by virtue of Part 2B (whistle-blowing) ”;
  - (b) in paragraph (c), after “complaints” insert “ or other concerns ”.
- (4) After subsection (5) insert—
- “(5A) In carrying out functions the Director General must have regard to any advice provided to the Director General by the Office (see section 10A(1)(c)).”
- (5) In subsection (7), for “Commission”, in the first place it occurs, substitute “ Office ”.
- (6) After that section insert—

#### **“10A General functions of the Office**

- (1) The functions of the Office are—
- (a) to secure that the Office has in place appropriate arrangements for good governance and financial management,
  - (b) to determine and promote the strategic aims and values of the Office,
  - (c) to provide support and advice to the Director General in the carrying out of the Director General's functions, and
  - (d) to monitor and review the carrying out of such functions.
- (2) The Office also has such other functions as are conferred on it by any other enactment (whenever passed or made).

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*Status: Point in time view as at 02/05/2017.*

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- (3) The Office is to perform its functions for the general purpose of improving the way in which the Director General's functions are carried out (including by encouraging the efficient and effective use of resources in the carrying out of those functions).
- (4) In carrying out its functions the Office must in particular have regard to public confidence in the existence of suitable arrangements with respect to the matters mentioned in section 10(2) and with the operation of the arrangements that are in fact maintained with respect to those matters.
- (5) The Office may do anything which appears to it to be calculated to facilitate, or is incidental or conducive to, the carrying out of its functions.

### **10B Efficiency etc in exercise of functions**

The Director General and the Office must carry out their functions efficiently and effectively.

### **10C Strategy for exercise of functions**

- (1) The Director General and the Office must jointly—
  - (a) prepare a strategy for the carrying out of their functions, and
  - (b) review the strategy (and revise it as appropriate) at least once every 12 months.
- (2) The strategy must set out how the Director General and the Office propose to carry out their functions in the relevant period.
- (3) The strategy must also include a plan for the use during the relevant period of resources for the carrying out of functions of the Director General and the Office.
- (4) The Director General and the Office must each give effect to the strategy in carrying out their functions.
- (5) The Director General and the Office must jointly publish a strategy (or revised strategy) prepared under this section (stating the time from which it takes effect).
- (6) In this section “relevant period”, in relation to a strategy, means the period of time that is covered by the strategy.

### **10D Code of practice**

- (1) The Director General and the Office must jointly prepare a code of practice dealing with the relationship between the Director General and the Office.
- (2) In doing so, they must (in particular) seek to reflect the principle that the Director General is to act independently when making decisions in connection with the carrying out of the Director General's functions.
- (3) The code must include provision as to the following—
  - (a) how the strategy required by section 10C is to be prepared, reviewed and revised;

*Status: Point in time view as at 02/05/2017.*

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- (b) the matters to be covered by the strategy and the periods to be covered by it from time to time;
  - (c) how the carrying out of functions by the Director General is to be monitored and reviewed by other members of the Office;
  - (d) the giving of advice to the Director General by other members of the Office in connection with the carrying out of functions by the Director General;
  - (e) the keeping of written records of instances where the Director General has not followed advice given by other members of the Office and the reasons for not doing so;
  - (f) how non-executive members of the Office are to give practical effect to the requirement imposed by subsection (2).
- (4) The Code may include whatever other provision the Director General and the Office think appropriate.
- (5) The Director General and the Office must jointly review the code regularly and revise it as appropriate.
- (6) The Director General and the Office must each comply with the code.
- (7) The Director General and the Office must jointly publish a code (or revised code) prepared under this section (stating the time from which it takes effect).”

**Commencement Information**

**I22** S. 34 in force for specified purposes at Royal Assent, see s. 183

**35 Public records**

- (1) In Schedule 1 to the Public Records Act 1958 (definition of public records), in Part 2 of the Table at the end of paragraph 3, insert at the appropriate place—

“Independent Office for Police Conduct.”

- (2) The records that become public records for the purposes of that Act as a result of the amendment made by subsection (1) include all records of the Independent Office for Police Conduct of the kind mentioned in paragraph 3(1) of Schedule 1 to that Act (whether created before or after the coming into force of this section, and whether created under that name or under the name of the Independent Police Complaints Commission).
- (3) If the amendment made by subsection (1) comes into force before subsection (1) of section 33 comes into force, the reference in that amendment to the Independent Office for Police Conduct is, until subsection (1) of that section comes into force, to be read as a reference to the Independent Police Complaints Commission.

**Commencement Information**

**I23** S. 35 in force for specified purposes at Royal Assent, see s. 183

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*Status: Point in time view as at 02/05/2017.*

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## CHAPTER 6

### INSPECTION

#### 36 Powers of inspectors to obtain information, access to police premises etc

- (1) In Schedule 4A to the Police Act 1996 (further provision about Her Majesty's Inspectors of Constabulary), for paragraphs 6A and 6B substitute—

##### “Powers of inspectors to obtain information etc

- 6A (1) An inspector may serve on a person a notice requiring the person—
- (a) to provide the inspector with any information or documents that the inspector reasonably requires for the purposes of an inspection under section 54;
  - (b) to produce or deliver up to the inspector any evidence or other things that the inspector reasonably requires for those purposes.

This is subject to sub-paragraphs (6) to (9).

- (2) A notice under this paragraph must—
- (a) specify or describe the information, documents, evidence or other things that are required by the inspector;
  - (b) specify the period within which the information, documents, evidence or other things must be provided, produced or delivered up;
  - (c) where the notice is served on a person who has a right of appeal under paragraph 6D, give details of that right of appeal.
- (3) In a case where a notice is served on a person who has a right of appeal under paragraph 6D, a period specified under sub-paragraph (2)(b) must not end before the end of the period within which the appeal could be brought.
- (4) A notice under this paragraph may specify the form and manner in which any information, documents, evidence or other things are to be provided, produced or delivered up.
- (5) An inspector may cancel a notice under this paragraph by written notice to the person on whom it was served.
- (6) A notice under this paragraph must not be used to obtain information, or any document or other thing, from—
- (a) the Security Service,
  - (b) the Secret Intelligence Service,
  - (c) the Government Communications Headquarters,
  - (d) any part of Her Majesty's forces, or of the Ministry of Defence, which engages in intelligence activities,
  - (e) the Crown Prosecution Service,
  - (f) the Service Prosecuting Authority, or
  - (g) the Serious Fraud Office.

*Status: Point in time view as at 02/05/2017.*

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- (7) A notice under this paragraph must also not be used to obtain information, or any document or other thing, from any person if—
- (a) the information, or the document or other thing, was obtained by that person (directly or indirectly) from a body or other entity mentioned in sub-paragraph (6), or
  - (b) the information, or the document or other thing, relates to a body or other entity mentioned in that sub-paragraph.
- (8) A notice under this paragraph must not require a person—
- (a) to provide information that might incriminate the person;
  - (b) to provide an item subject to legal privilege within the meaning of the Police and Criminal Evidence Act 1984 (see section 10 of that Act);
  - (c) to make a disclosure that would be prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016;
  - (d) to provide information that was provided to the person by, or by an agency of, the government of a country or territory outside the United Kingdom where that government does not consent to the disclosure of the information.
- (9) A notice under this paragraph must not require a postal or telecommunications operator to provide communications data.
- (10) In sub-paragraph (9), “communications data”, “postal operator” and “telecommunications operator” have the same meanings as in the Investigatory Powers Act 2016 (see sections 261 and 262 of that Act).
- (11) In this paragraph—
- “document” means anything in which information of any description is recorded;
- “inspector” means—
- (a) an inspector of constabulary,
  - (b) a person appointed under section 56 as an assistant inspector of constabulary or staff officer to the inspectors of constabulary, or
  - (c) a person authorised by an inspector of constabulary to act on behalf of the inspector for the purposes of this paragraph.

### **Powers of inspectors to obtain access to police premises**

- 6B (1) An inspector may serve on a person a notice requiring the person to allow the inspector access, which the inspector reasonably requires for the purposes of an inspection under section 54, to—
- (a) premises that are occupied (wholly or partly) for the purposes of—
    - (i) a police force,
    - (ii) a local policing body,
    - (iii) a person providing services, in pursuance of contractual arrangements (but without being employed by a chief officer of police of the police force or its local policing



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- body), to assist a police force in relation to the discharge of its chief officer's functions, or
- (iv) any other person who is, by virtue of any enactment, carrying out any of the activities of a police force, and
- (b) documents and other things on those premises.
- (2) A notice under this paragraph must—
- (a) specify or describe the premises to which the inspector requires access;
- (b) specify the time when access is required (which may be immediately after the service of the notice).
- (3) Where there are reasonable grounds for not allowing the inspector to have access to the premises at the time specified under sub-paragraph (2) (b), the requirement under this paragraph has effect as a requirement to secure that access is allowed to the inspector at the earliest practicable time specified by the inspector after there cease to be such grounds.
- (4) An inspector may cancel a notice under this paragraph by written notice to the person on whom it was served.
- (5) In this paragraph “document” and “inspector” have the same meanings as in paragraph 6A (and, for that purpose, the reference in paragraph (c) of the definition of “inspector” in paragraph 6A(11) to paragraph 6A is to be read as a reference to this paragraph).

#### **Failure to comply with notice under paragraph 6A or 6B**

- 6C (1) If a person who has received a notice under paragraph 6A or 6B—
- (a) fails or refuses without reasonable excuse to do what is required by the notice, or
- (b) (in the case of a notice under paragraph 6A) knowingly or recklessly provides information in response to the notice that is false in a material respect,
- the chief inspector of constabulary may certify in writing to the High Court that the person has failed to comply with the notice.
- (2) The High Court may then inquire into the matter and, after hearing any witness who may be produced against or on behalf of the person, and after hearing any statement offered in defence, deal with the person as if the person had committed a contempt of court.

#### **Appeals against notices under paragraph 6A**

- 6D (1) A person on whom a notice is served under paragraph 6A may appeal against the notice to the First-tier Tribunal on the ground that the notice is not in accordance with the law.
- (2) The right of appeal conferred by sub-paragraph (1) does not apply where the notice is served on a person who is—
- (a) a member of a police force;
- (b) a special constable;

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- (c) a member of the civilian staff of a police force, including the metropolitan police force (within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011);
  - (d) a local policing body or a person employed by a local policing body;
  - (e) a person providing services, in pursuance of contractual arrangements (but without being employed by a chief officer of police of a police force or its local policing body), to assist a police force in relation to the discharge of its chief officer's functions;
  - (f) a person employed by a person providing services as mentioned in paragraph (e);
  - (g) any other person who is, by virtue of any enactment, carrying out any of the activities of a police force.
- (3) If an appeal is brought, any requirement imposed by the notice is of no effect pending the determination or withdrawal of the appeal.
- (4) If the Tribunal considers that the notice is not in accordance with the law—
- (a) it must quash the notice, and
  - (b) it may give directions regarding the service of a further notice under paragraph 6A.

**Sensitive information: restriction on further disclosure**

- 6E (1) Where an inspector receives information within sub-paragraph (2), the inspector must not disclose the information, or the fact that it has been received, unless the relevant authority consents to the disclosure.
- (2) The information is—
- (a) intelligence service information;
  - (b) protected information relating to a relevant warrant;
  - (c) information obtained from a government department which, at the time it is provided to the inspector, is identified by the department as information the disclosure of which may, in the opinion of the relevant authority—
    - (i) cause damage to national security, international relations or the economic interests of the United Kingdom or any part of the United Kingdom, or
    - (ii) jeopardise the safety of any person.
- (3) Where an inspector discloses to another person information within sub-paragraph (2), or the fact that the inspector has received it, the other person must not disclose that information or that fact unless the relevant authority consents to the disclosure.
- (4) A prohibition on disclosure in sub-paragraph (1) or (3) does not apply to disclosure by one inspector to another.
- (5) In this paragraph—  
 “government department” means a department of Her Majesty's Government but does not include—

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- (a) the Security Service,
- (b) the Secret Intelligence Service, or
- (c) the Government Communications Headquarters (“GCHQ”);

“inspector” means—

- (a) an inspector of constabulary,
- (b) a person appointed under section 56 as an assistant inspector of constabulary or staff officer to the inspectors of constabulary, or
- (c) a person authorised by an inspector of constabulary to act on behalf of the inspector in receiving information (whether under paragraph 6A or otherwise);

“intelligence service information” means information that was obtained (directly or indirectly) from or that relates to—

- (a) the Security Service,
- (b) the Secret Intelligence Service,
- (c) GCHQ, or
- (d) any part of Her Majesty's forces, or of the Ministry of Defence, which engages in intelligence activities;

“Minister of the Crown” includes the Treasury;

“protected information”, in relation to a relevant warrant, means information relating to any of the matters mentioned in section 57(4) of the Investigatory Powers Act 2016 in relation to the warrant;

“relevant authority” means—

- (a) in the case of intelligence service information obtained (directly or indirectly) from or relating to the Security Service, the Director-General of the Security Service;
- (b) in the case of intelligence service information obtained (directly or indirectly) from or relating to the Secret Intelligence Service, the Chief of the Secret Intelligence Service;
- (c) in the case of intelligence service information obtained (directly or indirectly) from or relating to GCHQ, the Director of GCHQ;
- (d) in the case of intelligence service information obtained (directly or indirectly) from or relating to Her Majesty's forces or the Ministry of Defence, the Secretary of State;
- (e) in the case of protected information relating to a relevant warrant, the person to whom the relevant warrant is or was addressed;
- (f) in the case of information within sub-paragraph (2)(c)—
  - (i) the Secretary of State, or
  - (ii) the Minister of the Crown in charge of the government department from which the information was obtained (if that Minister is not a Secretary of State);

“relevant warrant” means—

*Status: Point in time view as at 02/05/2017.*

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- (a) a warrant under Chapter 1 of Part 2 of the Investigatory Powers Act 2016, or
- (b) a warrant under Chapter 1 of Part 6 of that Act.

### Provision of sensitive information to inspectors

- 6F (1) A person who provides information that is intelligence service information or protected information relating to a relevant warrant to an inspector (whether under a provision of this Schedule or otherwise) must—
- (a) make the inspector aware that the information is intelligence service information or (as the case may be) protected information relating to a relevant warrant, and
  - (b) provide the inspector with such additional information as will enable the inspector to identify the relevant authority in relation to the information.
- (2) In this paragraph, “inspector”, “intelligence service information”, “protected information relating to a relevant warrant” and “relevant authority” have the same meaning as in paragraph 6E.”

- (2) Omit section 86 of the Police Reform and Social Responsibility Act 2011 (which is spent as a result of subsection (1) above).

#### Commencement Information

**I24** S. 36 in force for specified purposes at Royal Assent, see s. 183

**I25** S. 36 in force at 2.5.2017 in so far as not already in force by S.I. 2017/399, reg. 4(a)

### 37 Inspectors and inspections: miscellaneous

- (1) In section 54 of the Police Act 1996 (appointment and functions of inspectors of constabulary), after subsection (6) insert—

“(7) For the purposes of this section, a police force includes—

- (a) staff appointed by the chief officer of police of the police force;
- (b) staff appointed by a local policing body if, or to the extent that, they are employed to assist the police force;
- (c) persons providing services, in pursuance of contractual arrangements (but without being employed by the chief officer of police of the police force or its local policing body), to assist the police force in relation to the discharge of its chief officer's functions;
- (d) any other persons if, or to the extent that, they are engaged by virtue of any enactment in carrying out the activities of the police force.”

- (2) In section 55 of that Act (publication of reports of inspections), after subsection (5) insert—

“(5A) The comments of the local policing body, together with any comments submitted by the chief officer of police and any response to those comments by the local policing body, must be published before the end of the period of 56 days beginning with the day on which the report is published.

*Status: Point in time view as at 02/05/2017.*

*Changes to legislation: Policing and Crime Act 2017, Part 2 is up to date with all changes known to be in force on or before 16 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)*

- (5B) If the published report includes a recommendation, the comments of the local policing body must include an explanation of—
- (a) the action the local policing body has taken or proposes to take in response to the recommendation, or
  - (b) why the local policing body has not taken, or does not propose to take, any action in response.”
- (3) In that section, in subsection (6), for the words after “subsection (5)” substitute “to—
- (a) the inspectors of constabulary, and
  - (b) the Secretary of State.”
- (4) In section 56 of that Act (assistant inspectors and staff officers), in subsections (1) and (2), for “Secretary of State” substitute “ chief inspector of constabulary ”.
- (5) In paragraph 2 of Schedule 4A to that Act (inspection programmes and inspection frameworks)—
- (a) in sub-paragraph (1)(a), for “he proposes” substitute “ the inspectors of constabulary propose ”;
  - (b) in sub-paragraph (1)(b), for “he proposes to carry out his” substitute “ they propose to carry out their ”;
  - (c) after sub-paragraph (5) insert—
    - “(6) The chief inspector of constabulary or, at the request of the chief inspector, any other inspector may carry out inspections that have not been set out in an inspection programme (and have not been required under section 54(2B) or requested under section 54(2BA)).
    - (7) Before deciding to carry out, or to request another inspector to carry out, an inspection that has not been set out in an inspection programme, the chief inspector of constabulary must consult —
      - (a) the Secretary of State, and
      - (b) the local policing body for the police force to which the inspection relates.”
- (6) In Schedule 6 to the Crime and Courts Act 2013 (inspection and complaints), in paragraph 4, after sub-paragraph (1) insert—
- “(1A) The comments must be published before the end of the period of 56 days beginning with the day on which the HMIC report is published by the Secretary of State.
- (1B) If the HMIC report includes a recommendation, the comments must include an explanation of—
- (a) the action the Director General has taken or proposes to take in response to the recommendation, or
  - (b) why the Director General has not taken, or does not propose to take, any action in response.”

#### Commencement Information

**I26** S. 37 in force for specified purposes at Royal Assent, see s. 183

**I27** S. 37 in force at 2.5.2017 in so far as not already in force by S.I. 2017/399, reg. 4(a) (with regs. 7, 8)

**Status:**

Point in time view as at 02/05/2017.

**Changes to legislation:**

Policing and Crime Act 2017, Part 2 is up to date with all changes known to be in force on or before 16 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.