



Anti-social Behaviour, Crime and Policing Act 2014

2014 CHAPTER 12

PART 11

POLICING ETC

Independent Police Complaints Commission

135 Application of IPCC provisions to contractors

In section 12 of the Police Reform Act 2002 (complaints, matters and persons to which Part 2 applies), at the end there is inserted—

“(8) The Secretary of State may make regulations providing that, for the purposes of this Part and of any regulations made under this Part—

- (a) a contractor,
- (b) a sub-contractor of a contractor, or
- (c) an employee of a contractor or a sub-contractor,

is to be treated as a person serving with the police.

(9) Regulations under subsection (8) may make modifications to this Part, and to any regulations made under this Part, in its application to those persons.

(10) In subsection (8) “contractor” means a person who has entered into a contract with a local policing body or a chief officer to provide services to a chief officer.”

136 Application to IPCC of provisions about investigation of offences

- (1) In Schedule 3 to the Police Reform Act 2002 (handling of complaints and conduct matters etc), paragraph 19 (investigations by the Independent Police Complaints Commission itself) is amended as follows.

(2) In sub-paragraph (6), for the words from “provide that such provisions” to “shall apply” there is substituted “provide that—

- (a) such provisions of the 1984 Act relating to investigations of offences conducted by police officers as may be specified in the order, and
- (b) such provisions of a code of practice under section 60, 60A or 66 of that Act as may be so specified,

shall apply”.

(3) After sub-paragraph (6) there is inserted—

“(6A) An order under sub-paragraph (6) may, in particular, provide that where a provision applied by the order allows a power to be exercised only if an authorisation is given by a police officer of or above a particular rank, the authorisation may be given by a member of the Commission’s staff of or above a specified grade.”

137 Provision of information to IPCC

After paragraph 19 of Schedule 3 to the Police Reform Act 2002 there is inserted—

“Investigations by the Commission: power to serve information notice

19ZA (1) The Commission may serve upon any person an information notice requiring the person to provide it with information that it reasonably requires for the purposes of an investigation in accordance with paragraph 19.

(2) But an information notice 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 Part 1 of the Regulation of Investigatory Powers Act 2000;
- (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.

(3) Neither must an information notice require a postal or telecommunications operator (within the meaning of Chapter 2 of Part 1 of the Regulation of Investigatory Powers Act 2000) to provide communications data (within the meaning of that Chapter).

(4) An information notice must—

- (a) specify or describe the information that is required by the Commission and the form in which it must be provided;
- (b) specify the period within which the information must be provided;
- (c) give details of the right of appeal against the information notice under paragraph 19ZC.

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- (5) The period specified under sub-paragraph (4)(b) must not end before the end of the period within which an appeal can be brought against the notice and, if such an appeal is brought, the information need not be provided pending the determination or withdrawal of the appeal.
- (6) The Commission may cancel an information notice by written notice to the person on whom it was served.

Failure to comply with information notice

- 19ZB (1) If a person who has received an information notice—
- (a) fails or refuses to provide the information required by the notice, or
 - (b) knowingly or recklessly provides information in response to the notice that is false in a material respect,
- the Commission may certify in writing to the High Court that the person has failed to comply with the information 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 information notices

- 19ZC (1) A person on whom an information notice is served may appeal against the notice to the First-tier Tribunal on the ground that the notice is not in accordance with the law.
- (2) 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 to the Commission in relation to the service of a further information notice.

Sensitive information: restriction on further disclosure

- 19ZD (1) Where the Commission receives information within sub-paragraph (2) under an information notice, it must not disclose (whether under section 11, 20 or 21 or otherwise) the information, or the fact that it has received it, unless the relevant authority consents to the disclosure.
- (2) The information is—
- (a) intelligence service information,
 - (b) intercept information, or
 - (c) information obtained (directly or indirectly) from a government department which, at the time it is provided to the Commission, is identified by the department as information the disclosure of which may, in the opinion of the relevant authority, cause damage to—
 - (i) national security or international relations, or
 - (ii) the economic interests of the United Kingdom or any part of the United Kingdom.

(3) Where the Commission discloses to another person information within sub-paragraph (2), or the fact that it has received it, that person must not disclose that information or that fact unless the relevant authority consents to the disclosure.

(4) In this paragraph—

“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 which was obtained (directly or indirectly) from an intelligence service or which relates to an intelligence service;

“intelligence service” means—

- (a) the Security Service,
- (b) the Secret Intelligence Service,
- (c) GCHQ, or
- (d) any part of Her Majesty’s forces (within the meaning of the Armed Forces Act 2006), or of the Ministry of Defence, which engages in intelligence activities;

“intercept information” means information relating to any of the matters mentioned in section 19(3) of the Regulation of Investigatory Powers Act 2000;

“Minister of the Crown” includes the Treasury;

“relevant authority” means—

- (a) in the case of intelligence service information obtained from the Security Service, the Director-General of the Security Service;
- (b) in the case of intelligence service information obtained from the Secret Intelligence Service, the Chief of the Secret Intelligence Service;
- (c) in the case of intelligence service information obtained from GCHQ, the Director of GCHQ;
- (d) in the case of intelligence service information obtained from Her Majesty’s forces or the Ministry of Defence, the Secretary of State;
- (e) in the case of intercept information, the person to whom the relevant interception 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 interception warrant” means the interception warrant issued under section 5 of the Regulation of Investigatory Powers Act 2000 that relates to the intercept information.”

138 Unsatisfactory performance procedures following investigation of death or serious injury matter

(1) In paragraph 24C of Schedule 3 to the Police Reform Act 2002 (cases of death or serious injury where Independent Police Complaints Commission determines that disciplinary proceedings not justified), at the end there is inserted—

“(3) The Commission may notify the appropriate authority that it must, in accordance with regulations under section 50 or 51 of the 1996 Act, determine—

- (a) whether or not the performance of a person serving with the police is unsatisfactory, and
- (b) what action (if any) the authority will take in respect of any such person’s performance.

(4) On receipt of a notification under sub-paragraph (3) the appropriate authority shall make those determinations and submit a memorandum to the Commission setting out the determinations the authority has made.

(5) On receipt of a memorandum under sub-paragraph (4), the Commission shall—

- (a) consider the memorandum and whether the appropriate authority has made the determinations under sub-paragraph (4) that the Commission considers appropriate;
- (b) determine whether or not to make recommendations under paragraph 27;
- (c) make such recommendations (if any) under that paragraph as it thinks fit.”

(2) Paragraph 27 of that Schedule (duties with respect to disciplinary proceedings) is amended as follows.

(3) In sub-paragraph (1), at the end there is inserted “; or

- (c) has submitted, or is required to submit, a memorandum to the Commission under paragraph 24C(4).”

(4) After sub-paragraph (3) there is inserted—

“(3A) Where this paragraph applies by virtue of sub-paragraph (1)(c), the Commission may make a recommendation to the appropriate authority—

- (a) that the performance of a person serving with the police is, or is not, satisfactory;
- (b) that action of the form specified in the recommendation is taken in respect of the person’s performance;

and it shall be the duty of the appropriate authority to notify the Commission whether it accepts the recommendation and (if it does) to set out in the notification the steps that it is proposing to take to give effect to it.”

139 Recommendations by IPCC and requirement to respond

After paragraph 28 of Schedule 3 to the Police Reform Act 2002 there is inserted—

“Recommendations by the Commission

- 28A (1) This paragraph applies where the Commission has received a report under—
- (a) paragraph 22(3) (report on completion of investigation of complaint or conduct matter supervised or managed by Commission),
 - (b) paragraph 22(5) (report on completion of investigation of complaint or conduct matter by Commission itself), or
 - (c) paragraph 24A(2) (report on completion of investigation of DSI matter that is not also conduct matter).
- (2) This paragraph also applies where the Commission has made a determination on an appeal under—
- (a) paragraph 8A (appeal relating to complaint dealt with other than by investigation), or
 - (b) paragraph 25 (appeal with respect to an investigation).
- (3) The Commission may make a recommendation in relation to a matter dealt with in the report or appeal.
- (4) A recommendation under this paragraph may be made to any person if it is made—
- (a) following the receipt of a report relating to—
 - (i) a DSI matter,
 - (ii) a conduct matter of a type specified in regulations, or
 - (iii) a complaint of a type specified in regulations; or
 - (b) following a determination on an appeal relating to a complaint of a type specified in regulations.
- (5) In any other case, a recommendation under this paragraph may be made only to—
- (a) a person serving with the police, or
 - (b) a local policing body.
- (6) Where the Commission makes a recommendation under this paragraph, it must also—
- (a) publish the recommendation, and
 - (b) send a copy of it—
 - (i) in a case where the recommendation is made to a local policing body, to the chief officer of the police force maintained by that body;
 - (ii) in a case where the recommendation is made to a chief officer of a police force, to the local policing body that maintains the police force;
 - (iii) in a case where the recommendation is made to a contractor (within the meaning of section 12(10)), to the chief officer of a police force to whom the contractor is providing services, and the local policing body that maintains the police force;

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- (iv) in a case where the recommendation is made to a sub-contractor or an employee of a contractor, to the contractor and the persons to whom a copy must be sent under paragraph (iii);
 - (v) in a case where the recommendation is made to an employee of a sub-contractor, to the sub-contractor, the contractor and the persons to whom a copy must be sent under sub-paragraph (iii);
 - (vi) in any other case, to any person to whom the Commission thinks a copy should be sent.
- (7) Nothing in this paragraph affects the power of the Commission to make recommendations or give advice under section 10(1)(e) (whether arising under this Schedule or otherwise).

Response to recommendation

- 28B (1) A person to whom a recommendation under paragraph 28A is made must provide to the Commission a response in writing stating—
- (a) what action the person has taken or proposes to take in response to the recommendation, or
 - (b) why the person has not taken, or does not propose to take, any action in response.
- (2) The person must provide the response to the Commission before the end of the period of 56 days beginning with the day on which the recommendation was made, unless sub-paragraph (3) applies.
- (3) The Commission may extend the period of 56 days following an application received before the end of the period; and if the Commission grants an extension, the person must provide the response before the end of the extended period.
- (4) But if proceedings for judicial review of the Commission's decision to make a recommendation are started during the period allowed by sub-paragraph (2) or (3), that period is extended by however many days the proceedings are in progress.
- (5) On receiving a response, the Commission must, within the period of 21 days beginning with the day on which the Commission received it—
- (a) publish the response, and
 - (b) send a copy of it to any person who was sent a copy of the recommendation under paragraph 28A(6)(b),
- unless the person giving the response has made representations under sub-paragraph (6).
- (6) The person giving the response may, at the time of providing it to the Commission, make representations to the Commission asserting that the requirements of publication and disclosure under sub-paragraph (5) should not apply to the response, or to particular parts of it.
- (7) On receiving such representations, the Commission may decide—
- (a) that the response should not be published, or that only parts of it should be published;

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- (b) that the response should not be disclosed, or that only parts of the response should be disclosed.
- (8) Where, following a decision on representations, the Commission decides to publish or disclose a response (in whole or in part), it must do so only after the person giving the response has been informed of the Commission's decision, and—
 - (a) in a case where the Commission has decided to accept all of the representations, it must do so within the period of 21 days beginning with the day on which it received the response;
 - (b) in a case where the Commission has decided to reject any of the representations, it must do so—
 - (i) within the period of 21 days beginning with the day on which the person was informed of the Commission's decision on the representations, but
 - (ii) not before the end of the period of 7 days beginning with that day.
- (9) But if proceedings for judicial review of the Commission's decision to reject a representation are started during the period of 7 days referred to in sub-paragraph (8)(b)(ii)—
 - (a) the Commission must not publish or disclose the response while the proceedings are in progress;
 - (b) if the court upholds the Commission's decision to reject a representation, the Commission must publish and disclose the response (in whole or in part, as appropriate) before the end of the period of 7 days beginning with the day on which the proceedings are no longer in progress.
- (10) Where a local policing body or a chief officer makes a response under this paragraph, the body or officer must, at the time the Commission publishes the response, also publish the response (to the same extent as published by the Commission) and the recommendation under paragraph 28A.
- (11) For the purposes of this paragraph—
 - (a) “disclosing” a response means sending a copy of it as mentioned in sub-paragraph (5)(b);
 - (b) the period during which judicial review proceedings are in progress includes any day on which an appeal is in progress or may be brought.”