

*Status: Point in time view as at 22/11/2012.*

*Changes to legislation: Police Reform Act 2002, Part 3 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 3

#### HANDLING OF COMPLAINTS AND CONDUCT MATTERS ETC.

#### PART 3

#### INVESTIGATIONS AND SUBSEQUENT PROCEEDINGS

##### *Power of the Commission to determine the form of an investigation*

- 15 (1) This paragraph applies where—
- (a) a complaint [<sup>F1</sup>, recordable conduct matter or DSI matter] is referred to the Commission; and
  - (b) the Commission determines that it is necessary for the complaint or matter to be investigated.
- (2) It shall be the duty of the Commission to determine the form which the investigation should take.
- (3) In making a determination under sub-paragraph (2) the Commission shall have regard to the following factors—
- (a) the seriousness of the case; and
  - (b) the public interest.
- (4) The only forms which the investigation may take in accordance with a determination made under this paragraph are—
- (a) an investigation by the appropriate authority on its own behalf;
  - (b) an investigation by that authority under the supervision of the Commission;
  - (c) an investigation by that authority under the management of the Commission;
  - (d) an investigation by the Commission.
- (5) The Commission may at any time make a further determination under this paragraph to replace an earlier one.
- (6) Where a determination under this paragraph replaces an earlier determination under this paragraph, or relates to a complaint or matter in relation to which the appropriate authority has already begun an investigation on its own behalf, the Commission may give—
- (a) the appropriate authority, and
  - (b) any person previously appointed to carry out the investigation,
- such directions as it considers appropriate for the purpose of giving effect to the new determination.
- (7) It shall be the duty of a person to whom a direction is given under sub-paragraph (6) to comply with it.

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- (8) The Commission shall notify the appropriate authority of any determination that it makes under this paragraph in relation to a particular complaint [<sup>F1</sup>, recordable conduct matter or DSI matter] .

**Textual Amendments**

- F1** Words in Sch. 3 para. 15(1)(a)(8) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 13](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)

**Modifications etc. (not altering text)**

- C1** Sch. 3 para. 15 applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(4\)\(6\)](#), Sch. 3

**Commencement Information**

- II** Sch. 3 para. 15 wholly in force at 1.4.2004; Sch. 3 para. 15 not in force at Royal Assent see s. 108(2); Sch. 3 para. 15 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), [art. 4\(e\)](#); Sch. 3 para. 15 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), [art. 2\(d\)](#)

*Investigations by the appropriate authority on its own behalf*

- 16 (1) This paragraph applies if the appropriate authority is required by virtue of—
- (a) any determination made by that authority under [<sup>F2</sup>paragraph 6(3)] (whether following the recording of a complaint or on a reference back under paragraph 5(2)) or under paragraph 8(4), or
  - (b) any determination made by the Commission under paragraph 15, to make arrangements for a complaint[<sup>F3</sup>, recordable conduct matter or DSI matter] to be investigated by the appropriate authority on its own behalf.
- (2) This paragraph also applies if—
- (a) a determination falls to be made by that authority under paragraph [<sup>F4</sup>10(4D)], or [<sup>F5</sup>11(3E)] or 14(2) in relation to any recordable conduct matter [<sup>F6</sup>or under paragraph 14D(2) in relation to any DSI matter]; and
  - (b) the appropriate authority determine that it is necessary for the matter to be investigated by the authority on its own behalf.
- (3) Subject to sub-paragraph (4) [<sup>F7</sup>or (5)], it shall be the duty of the appropriate authority to appoint—
- (a) a person serving with the police (whether under the direction and control of the chief officer of police of the relevant force or of the chief officer of another force), or
  - [<sup>F8</sup>(b) a member of the staff of the Serious Organised Crime Agency,][<sup>F9</sup>or
  - (c) a member of the staff of the National Policing Improvement Agency who is a constable,]
- to investigate the complaint or matter.
- (4) The person appointed under this paragraph to investigate any complaint or [<sup>F10</sup>conduct matter]—
- (a) in the case of an investigation relating to any conduct of a chief officer, must not be a person under that chief officer’s direction and control; and

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- (b) in the case of an investigation relating to any conduct of the Commissioner of Police of the Metropolis or of the Deputy Commissioner of Police of the Metropolis, must be the person nominated by the Secretary of State for appointment under this paragraph.

[<sup>F11</sup>(5) The person appointed under this paragraph to investigate any DSI matter—

- (a) in relation to which the relevant officer is a chief officer, must not be a person under that chief officer's direction and control;
- (b) in relation to which the relevant officer is the Commissioner of Police of the Metropolis or the Deputy Commissioner of Police of the Metropolis, must be the person nominated by the Secretary of State for appointment under this paragraph.]

#### Textual Amendments

- F2** Words in Sch. 3 para. 16(1)(a) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 9\(2\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F3** Words in Sch. 3 para. 16(1) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 14\(2\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F4** Words in Sch. 3 para. 16(2)(a) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 11\(5\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F5** Words in Sch. 3 para. 16(2)(a) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 12\(5\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F6** Words in Sch. 3 para. 16(2)(a) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 14\(3\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F7** Words in Sch. 3 para. 16(3) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 14\(4\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F8** Sch. 3 para. 16(3)(b) substituted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 55, 178, [Sch. 2 para. 11\(2\)](#); S.I. 2006/378, [art. 4\(1\)](#), Sch. para. 8 (subject to art. 4(2)-(7))
- F9** Sch. 3 para. 16(3)(c) and preceding word inserted (1.4.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 1, 53, [Sch. 1 para. 89\(2\)](#); S.I. 2007/709, [art. 3\(a\)](#) (subject to arts. 6, 7)
- F10** Words in Sch. 3 para. 16(4) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 14\(5\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F11** Sch. 3 para. 16(5) added (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 14\(6\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)

#### Modifications etc. (not altering text)

- C2** Sch. 3 para. 16 applied (with modifications) (E.W.) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(4\)\(6\)](#), Sch. 3

#### Commencement Information

- I2** Sch. 3 para. 16 wholly in force at 1.4.2004; Sch. 3 para. 16 not in force at Royal Assent see s. 108(2); Sch. 3 para. 16 in force for specified purposes at 1.10.2002 by S.I. 2002/2306, [art. 4\(e\)](#); Sch. 3 para. 16 in force in so far as not already in force at 1.4.2004 by S.I. 2004/913, [art. 2\(d\)](#)

#### Investigations supervised by the Commission

- 17 (1) This paragraph applies where the Commission has determined that it should supervise the investigation by the appropriate authority of any complaint [<sup>F12</sup>, recordable conduct matter or DSI matter] .

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- (2) On being given notice of that determination, the appropriate authority shall, if it has not already done so, appoint—
- (a) a person serving with the police (whether under the direction and control of the chief officer of police of the relevant force or of the chief officer of another force), or
  - [<sup>F13</sup>(b) a member of the staff of the Serious Organised Crime Agency,]<sup>[<sup>F14</sup> or</sup>
  - (c) a member of the staff of the National Policing Improvement Agency who is a constable,]]
- to investigate the complaint or matter.
- (3) The Commission may require that no appointment is made under sub-paragraph (2) unless it has given notice to the appropriate authority that it approves the person whom that authority proposes to appoint.
- (4) Where a person has already been appointed to investigate the complaint or matter, or is selected under this sub-paragraph for appointment, and the Commission is not satisfied with that person, the Commission may require the appropriate authority, as soon as reasonably practicable after being required to do so—
- (a) to select another person falling within sub-paragraph (2)(a) [<sup>F15</sup>, (b) or (c)] to investigate the complaint or matter; and
  - (b) to notify the Commission of the person selected.
- (5) Where a selection made in pursuance of a requirement under sub-paragraph (4) has been notified to the Commission, the appropriate authority shall appoint that person to investigate the complaint or matter if, but only if, the Commission notifies the authority that it approves the appointment of that person.
- (6) A person appointed under this paragraph to investigate any complaint or [<sup>F16</sup>conduct matter]—
- (a) in the case of an investigation relating to any conduct of a chief officer, must not be a person under that chief officer's direction and control; and
  - (b) in the case of an investigation relating to any conduct of the Commissioner of Police of the Metropolis or of the Deputy Commissioner of Police of the Metropolis, must be the person nominated by the Secretary of State for appointment under this paragraph.
- [<sup>F17</sup>(6A) The person appointed under this paragraph to investigate any DSI matter—
- (a) in relation to which the relevant officer is a chief officer, must not be a person under that chief officer's direction and control;
  - (b) in relation to which the relevant officer is the Commissioner of Police of the Metropolis or the Deputy Commissioner of Police of the Metropolis, must be the person nominated by the Secretary of State for appointment under this paragraph.]
- (7) The person appointed to investigate the complaint or matter shall comply with all such requirements in relation to the carrying out of that investigation as may, in accordance with regulations made for the purposes of this sub-paragraph by the Secretary of State, be imposed by the Commission in relation to that investigation.

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#### Textual Amendments

- F12** Words in Sch. 3 para. 17(1) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 160, 178, Sch. 12 para. 15\(2\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F13** Sch. 3 para. 17(2)(b) substituted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 55, 178, Sch. 2 para. 11\(3\)](#); S.I. 2006/378, [art. 4\(1\)](#), Sch. para. 8 (subject to art. 4(2)–(7))
- F14** Sch. 3 para. 17(2)(c) and preceding word inserted (1.4.2007) by [Police and Justice Act 2006 \(c. 48\), ss. 1, 53, Sch. 1 para. 89\(3\)](#); S.I. 2007/709, [art. 3\(a\)](#) (subject to arts. 6, 7)
- F15** Words in Sch. 3 para. 17(4) substituted (1.4.2007) by [Police and Justice Act 2006 \(c. 48\), ss. 1, 53, Sch. 1 para. 89\(4\)](#); S.I. 2007/709, [art. 3\(a\)](#) (subject to arts. 6, 7)
- F16** Words in Sch. 3 para. 17(6) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 160, 178, Sch. 12 para. 15\(3\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F17** Sch. 3 para. 17(6A) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 160, 178, Sch. 12 para. 15\(4\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)

#### Modifications etc. (not altering text)

- C3** Sch. 3 para. 17 applied (with modifications) (E.W.) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(4\)\(6\)](#), Sch. 3

#### Commencement Information

- I3** Sch. 3 para. 17 wholly in force at 1.4.2004; Sch. 3 para. 17 not in force at Royal Assent see s. 108(2); Sch. 3 para. 17 in force for specified purposes at 1.10.2002 by S.I. 2002/2306, [art. 4\(e\)](#); Sch. 3 para. 17 in force in so far as not already in force at 1.4.2004 by S.I. 2004/913, [art. 2\(d\)](#)

#### *Investigations managed by the Commission*

- 18 (1) This paragraph applies where the Commission has determined that it should manage the investigation by the appropriate authority of any complaint [<sup>F18</sup>, recordable conduct matter or DSI matter] .
- (2) Sub-paragraphs (2) to [<sup>F19</sup>(6A)] of paragraph 17 shall apply as they apply in the case of an investigation which the Commission has determined is one that it should supervise.
- (3) The person appointed to investigate the complaint or matter shall, in relation to that investigation, be under the direction and control of the Commission.

#### Textual Amendments

- F18** Words in Sch. 3 para. 18(1) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 160, 178, Sch. 12 para. 16\(2\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F19** Word in Sch. 3 para. 18(2) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 160, 178, Sch. 12 para. 16\(3\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)

#### Modifications etc. (not altering text)

- C4** Sch. 3 para. 18 applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(4\)\(6\)](#), Sch. 3

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#### **Commencement Information**

- 14** Sch. 3 para. 18 wholly in force at 1.4.2004; Sch. 3 para. 18 not in force at Royal Assent see s. 108(2); Sch. 3 para. 18 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306, art. 4\(e\)](#); Sch. 3 para. 18 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913, art. 2\(d\)](#)

#### *Investigations by the Commission itself*

- 19 (1) This paragraph applies where the Commission has determined that it should itself carry out the investigation of a complaint [<sup>F20</sup>, recordable conduct matter or DSI matter].
- (2) The Commission shall designate both—
- (a) a member of the Commission’s staff to take charge of the investigation on behalf of the Commission, and
  - (b) all such other members of the Commission’s staff as are required by the Commission to assist him.
- (3) The person designated under sub-paragraph (2) to be the person to take charge of an investigation relating to any conduct of the Commissioner of Police of the Metropolis or of the Deputy Commissioner of Police of the Metropolis must be the person nominated by the Secretary of State to be so designated under that sub-paragraph.
- [<sup>F21</sup>(3A) The person designated under sub-paragraph (2) to be the person to take charge of an investigation of a DSI matter in relation to which the relevant officer is the Commissioner of Police of the Metropolis or the Deputy Commissioner of Police of the Metropolis must be the person nominated by the Secretary of State to be so designated under that sub-paragraph.]
- (4) A member of the Commission’s staff who—
- (a) is designated under sub-paragraph (2) in relation to any investigation, but
  - (b) does not already, by virtue of section 97(8) of the 1996 Act, have all the powers and privileges of a constable throughout England and Wales and the adjacent United Kingdom waters,
- shall, for the purposes of the carrying out of the investigation and all purposes connected with it, have all those powers and privileges throughout England and Wales and those waters.
- (5) A member of the Commission’s staff who is not a constable shall not, as a result of sub-paragraph (4), be treated as being in police service for the purposes of—
- (a) section 280 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52) (person in police service excluded from definitions of “worker” and “employee”); or
  - (b) section 200 of the Employment Rights Act 1996 (c. 18) (certain provisions of that Act not to apply to persons in police service).
- (6) The Secretary of State may by order provide that such provisions of the 1984 Act relating to investigations of offences conducted by police officers as may be specified in the order shall apply, subject to such modifications as may be so specified, to investigations of offences conducted by virtue of this paragraph by members of the Commission’s staff designated under sub-paragraph (2).
- (7) References in this paragraph to the powers and privileges of a constable—

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- (a) are references to any power or privilege conferred by or under any enactment (including one passed after the passing of this Act) on a constable; and
- (b) shall have effect as if every such power were exercisable, and every such privilege existed, throughout England and Wales and the adjacent United Kingdom waters (whether or not that is the case apart from this subparagraph).

(8) In this paragraph “United Kingdom waters” means the sea and other waters within the seaward limits of the United Kingdom’s territorial sea.

#### Textual Amendments

- F20** Words in Sch. 3 para. 19(1) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 17\(2\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F21** Sch. 3 para. 19(3A) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 17\(3\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)

#### Modifications etc. (not altering text)

- C5** Sch. 3 para. 19 applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(4\)\(6\)](#), Sch. 3
- C6** Sch. 3 para. 19(4)(5)(7)(8) applied (with modifications) (16.1.2012) by [The Elected Local Policing Bodies \(Complaints and Misconduct\) Regulations 2012 \(S.I. 2012/62\)](#), [regs. 1, 20\(3\)](#) (with [reg. 3\(6\)](#))

#### Commencement Information

- I5** Sch. 3 para. 19 wholly in force at 1.4.2004; Sch. 3 para. 19 not in force at Royal Assent see s. 108(2); Sch. 3 para. 19 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), [art. 4\(e\)](#); Sch. 3 para. 19 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), [art. 2\(d\)](#)

#### *Special procedure where investigation relates to police officer or special constable*

<sup>F22</sup>19A Paragraphs 19B to 19E apply to investigations of complaints or recordable conduct matters in cases where the person concerned (see paragraph 19B(11)) is a member of a police force or a special constable.

#### Textual Amendments

- F22** Sch. 3 paras. 19A-19E inserted (3.11.2008 for the purpose of making regulations and 1.12.2008 otherwise) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 5](#) (with s. 14(1)); S.I. 2008/2712, [art. 2](#), Sch. para. 17(b) (subject to arts. 3, 4); S.I. 2008/2993, [art. 2\(1\)\(i\)\(ii\)](#) (with [art. 3](#))

#### *Assessment of seriousness of conduct under investigation*

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

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

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- the person investigating must certify the investigation as one subject to special requirements.
- (2) If the person investigating a complaint certifies the investigation as one subject to special requirements, the person must, as soon as is reasonably practicable after doing so, make a severity assessment in relation to the conduct of the person concerned to which the investigation relates.
  - (3) The person investigating a recordable conduct matter must make a severity assessment in relation to the conduct to which the investigation relates—
    - (a) as soon as is reasonably practicable after his appointment or designation, or
    - (b) in the case of a matter recorded in accordance with paragraph 21A(5) or 24B(2), as soon as is reasonably practicable after it is so recorded.
  - (4) For the purposes of this paragraph a “severity assessment”, in relation to conduct, means an assessment as to—
    - (a) whether the conduct, if proved, would amount to misconduct or gross misconduct, and
    - (b) if the conduct were to become the subject of disciplinary proceedings, the form which those proceedings would be likely to take.
  - (5) An assessment under this paragraph may only be made after consultation with the appropriate authority.
  - (6) On completing an assessment under this paragraph, the person investigating the complaint or matter must give a notification to the person concerned that complies with sub-paragraph (7).
  - (7) The notification must—
    - (a) give the prescribed information about the results of the assessment;
    - (b) give the prescribed information about the effect of paragraph 19C and of regulations under paragraph 19D;
    - (c) set out the prescribed time limits for providing the person investigating the complaint or matter with relevant statements and relevant documents respectively for the purposes of paragraph 19C(2);
    - (d) give such other information as may be prescribed.
  - (8) Sub-paragraph (6) does not apply for so long as the person investigating the complaint or matter considers that giving the notification might prejudice—
    - (a) the investigation, or
    - (b) any other investigation (including, in particular, a criminal investigation).
  - (9) Where the person investigating a complaint or matter has made a severity assessment and considers it appropriate to do so, the person may revise the assessment.
  - (10) On revising a severity assessment, the person investigating the complaint or matter must notify the prescribed information about the revised assessment to the person concerned.
  - (11) In this paragraph and paragraphs 19C to 19E—
 

“the person concerned”—

    - (a) in relation to an investigation of a complaint, means the person in respect of whom it appears to the person investigating that there is the indication mentioned in paragraph 19B(1);



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- (b) in relation to an investigation of a recordable conduct matter, means the person to whose conduct the investigation relates;  
“relevant document”—
- (a) means a document relating to any complaint or matter under investigation, and
- (b) includes such a document containing suggestions as to lines of inquiry to be pursued or witnesses to be interviewed;  
“relevant statement” means an oral or written statement relating to any complaint or matter under investigation.

#### Textual Amendments

**F22** Sch. 3 paras. 19A-19E inserted (3.11.2008 for the purpose of making regulations and 1.12.2008 otherwise) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 5](#) (with s. 14(1)); S.I. 2008/2712, [art. 2](#), Sch. para. 17(b) (subject to arts. 3, 4); S.I. 2008/2993, [art. 2\(1\)\(i\)\(ii\)](#) (with art. 3)

#### *Duty to consider submissions from person whose conduct is being investigated*

- 19C (1) This paragraph applies to—
- (a) an investigation of a complaint that has been certified under paragraph 19B(1) as one subject to special requirements, or
  - (b) an investigation of a recordable conduct matter.
- (2) If before the expiry of the appropriate time limit notified in pursuance of paragraph 19B(7)(c)—
- (a) the person concerned provides the person investigating the complaint or matter with a relevant statement or a relevant document, or
  - (b) any person of a prescribed description provides that person with a relevant document,
- that person must consider the statement or document.

#### Textual Amendments

**F22** Sch. 3 paras. 19A-19E inserted (3.11.2008 for the purpose of making regulations and 1.12.2008 otherwise) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 5](#) (with s. 14(1)); S.I. 2008/2712, [art. 2](#), Sch. para. 17(b) (subject to arts. 3, 4); S.I. 2008/2993, [art. 2\(1\)\(i\)\(ii\)](#) (with art. 3)

#### *Interview of person whose conduct is being investigated*

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

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- (c) for enabling that person to be accompanied at the interview by a person of a prescribed description.

**Textual Amendments**

**F22** Sch. 3 paras. 19A-19E inserted (3.11.2008 for the purpose of making regulations and 1.12.2008 otherwise) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 5](#) (with s. 14(1)); S.I. 2008/2712, [art. 2](#), Sch. para. 17(b) (subject to arts. 3, 4); S.I. 2008/2993, [art. 2\(1\)\(i\)\(ii\)](#) (with [art. 3](#))

*Duty to provide certain information to appropriate authority*

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

**Textual Amendments**

**F22** Sch. 3 paras. 19A-19E inserted (3.11.2008 for the purpose of making regulations and 1.12.2008 otherwise) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 5](#) (with s. 14(1)); S.I. 2008/2712, [art. 2](#), Sch. para. 17(b) (subject to arts. 3, 4); S.I. 2008/2993, [art. 2\(1\)\(i\)\(ii\)](#) (with [art. 3](#))

*Restrictions on proceedings pending the conclusion of an investigation*

- 20 (1) No criminal or disciplinary proceedings shall be brought in relation to any matter which is the subject of an investigation in accordance with the provisions of this Schedule [<sup>F23</sup> until—
- (a) the appropriate authority has certified the case as a special case under paragraph 20B(3) or 20E(3), or]
  - [<sup>F24</sup>(b)] a report on that investigation has been submitted to the Commission or to the appropriate authority under paragraph 22 [<sup>F25</sup>or 24A] .
- (2) Nothing in this paragraph shall prevent the bringing of criminal or disciplinary proceedings in respect of any conduct at any time after the discontinuance of the investigation in accordance with the provisions of this Schedule which relates to that conduct.
- (3) The restrictions imposed by this paragraph in relation to the bringing of criminal proceedings shall not apply to the bringing of criminal proceedings by the Director of

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Public Prosecutions in any case in which it appears to him that there are exceptional circumstances which make it undesirable to delay the bringing of such proceedings.

#### Textual Amendments

- F23** Words in Sch. 3 para. 20(1) substituted for word (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 159, 178, [Sch. 11 para. 2\(a\)](#); S.I. 2005/1521, [art. 3\(1\)\(v\)](#)
- F24** Words in Sch. 3 para. 20(1) renumbered (1.7.2005) as Sch. 3 para. 20(1)(b) by virtue of [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 159, 178, [Sch. 11 para. 2\(b\)](#); S.I. 2005/1521, [art. 3\(1\)\(v\)](#)
- F25** Words in Sch. 3 para. 20(1) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 18](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)

#### Modifications etc. (not altering text)

- C7** Sch. 3 para. 20 applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(4\)\(6\)](#), Sch. 3
- C8** Sch. 3 para. 20 applied (with modifications) (16.1.2012) by [The Elected Local Policing Bodies \(Complaints and Misconduct\) Regulations 2012 \(S.I. 2012/62\)](#), regs. 1, [23](#) (with [reg. 3\(6\)](#))

#### Commencement Information

- I6** Sch. 3 para. 20 wholly in force at 1.4.2004; Sch. 3 para. 20 not in force at Royal Assent see s. 108(2); Sch. 3 para. 20 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), [art. 4\(e\)](#); Sch. 3 para. 20 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), [art. 2\(d\)](#)

#### *Accelerated procedure in special cases*

[<sup>F26</sup>20A(1) If, at any time before the completion of his investigation, [<sup>F27</sup>the person investigating] a complaint or recordable conduct matter believes that the appropriate authority would, on consideration of the matter, be likely to consider that the special conditions are satisfied, he shall proceed in accordance with the following provisions of this paragraph.

- (2) If the person was appointed under paragraph 16, he shall submit to the appropriate authority—
- a statement of his belief and the grounds for it; and
  - a written report on his investigation to that point;
- and if he was appointed following a determination made by the Commission under paragraph 15 he shall send a copy of the statement and the report to the Commission.
- (3) If the person was appointed under paragraph 17 or 18 or designated under paragraph 19, he shall submit to the appropriate authority—
- a statement of his belief and the grounds for it; and
  - a written report on his investigation to that point;
- and shall send a copy of the statement and the report to the Commission.
- (4) A person submitting a report under this paragraph shall not be prevented by any obligation of secrecy imposed by any rule of law or otherwise from including all such matters in his report as he thinks fit.
- (5) A statement and report may be submitted under this paragraph whether or not a previous statement and report have been submitted; but a second or subsequent statement and report may be submitted only if the person submitting them has

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grounds to believe that the appropriate authority will reach a different determination under paragraph 20B(2) or 20E(2).

- (6) After submitting a report under this paragraph, the person [<sup>F28</sup>investigating] the complaint or recordable conduct matter shall continue his investigation to such extent as he considers appropriate.
- (7) The special conditions are that—
- [<sup>F29</sup>(a) there is sufficient evidence, in the form of written statements or other documents, to establish on the balance of probabilities that conduct to which the investigation relates constitutes gross misconduct;]
- (c) it is in the public interest for the person whose conduct [<sup>F30</sup>it is] to cease to be a member of a police force, or to be a special constable, without delay.
- (8) <sup>F31</sup> .....
- (9) In paragraphs 20B to 20H “special report” means a report submitted under this paragraph.

#### Textual Amendments

- F26** Sch. 3 paras. 20A-20I inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 159, 178, [Sch. 11 para. 3](#); S.I. 2005/1521, [art. 3\(1\)\(v\)](#)
- F27** Words in Sch. 3 para. 20A(1) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 6\(2\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F28** Words in Sch. 3 para. 20A(6) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 6\(3\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F29** Sch. 3 para. 20A(7)(a) substituted (1.12.2008) for Sch. 3 para. 20A(7)(a)(b) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 6\(4\)\(a\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F30** Words in Sch. 3 para. 20A(7)(c) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 6\(4\)\(b\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F31** Sch. 3 para. 20A(8) repealed (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 149, 153, [Sch. 23 para. 6\(5\)](#), [Sch. 28 Pt. 8](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(k\)\(ii\)](#) (subject to art. 3)

#### *Investigations managed or carried out by Commission: action by appropriate authority*

- 20B (1) This paragraph applies where —
- (a) a statement and special report on an investigation carried out under the management of the Commission, or
- (b) a statement and special report on an investigation carried out by a person designated by the Commission,
- are submitted to the appropriate authority under paragraph 20A(3).
- (2) The appropriate authority shall determine whether the special conditions are satisfied.
- [<sup>F32</sup>(3) If the appropriate authority determines that the special conditions are satisfied then, unless it considers that the circumstances are such as to make it inappropriate to do so, it shall—
- (a) certify the case as a special case for the purposes of regulations under section 50(3) or 51(2A) of the 1996 Act; and

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- (b) take such steps as are required by those regulations in relation to a case so certified.]
- (5) <sup>F33</sup> .....
- (6) The appropriate authority shall notify the Commission of a certification under sub-paragraph (3).
- (7) If the appropriate authority determines—
  - (a) that the special conditions are not satisfied, or
  - (b) that, although those conditions are satisfied, the circumstances are such as to make it inappropriate at present to bring disciplinary proceedings,it shall submit to the Commission a memorandum under this sub-paragraph.
- (8) The memorandum required to be submitted under sub-paragraph (7) is one which—
  - (a) notifies the Commission of its determination that those conditions are not satisfied or (as the case may be) that they are so satisfied but the circumstances are such as to make it inappropriate at present to bring disciplinary proceedings; and
  - (b) (in either case) sets out its reasons for so determining.
- (9) In this paragraph “special conditions” has the meaning given by paragraph 20A(7).

#### Textual Amendments

- F26** Sch. 3 paras. 20A-20I inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 159, 178, [Sch. 11 para. 3](#); S.I. 2005/1521, [art. 3\(1\)\(v\)](#)
- F32** Sch. 3 para. 20B(3) substituted (1.12.2008) for Sch. 3 para. 20B(3)(4) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 7\(2\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to [art. 3](#))
- F33** Sch. 3 para. 20B(5) repealed (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 149, 153, [Sch. 23 para. 7\(3\)](#), [Sch. 28 Pt. 8](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(k\)\(ii\)](#) (subject to [art. 3](#))

#### *Investigations managed or carried out by Commission: action by Commission*

- 20C (1) On receipt of a notification under paragraph 20B(6), the Commission shall give a notification—
- (a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section 21; and
  - (b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.
- (2) The notification required by sub-paragraph (1) is one setting out—
- (a) the findings of the special report;
  - (b) the appropriate authority's determination under paragraph 20B(2); and
  - (c) the action that the appropriate authority is required to take as a consequence of that determination.
- (3) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the Commission by sub-paragraph (1) as they have effect in relation to the duties imposed on the Commission by that section.

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- (4) Except so far as may be otherwise provided by regulations made by virtue of sub-paragraph (3), the Commission shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (1) notification of the findings of the special report by sending that person a copy of that report.

#### Textual Amendments

**F26** Sch. 3 paras. 20A-20I inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 159, 178, [Sch. 11 para. 3](#); S.I. 2005/1521, [art. 3\(1\)\(v\)](#)

#### *Investigations managed or carried out by Commission: action by Commission*

- 20D (1) On receipt of a memorandum under paragraph 20B(7), the Commission shall—
- (a) consider the memorandum;
  - (b) determine, in the light of that consideration, whether or not to make a recommendation under paragraph 20H; and
  - (c) if it thinks fit to do so, make a recommendation under that paragraph.
- (2) If the Commission determines not to make a recommendation under paragraph 20H, it shall notify the appropriate authority and the person [<sup>F34</sup>investigating the complaint or matter] of its determination.

#### Textual Amendments

**F26** Sch. 3 paras. 20A-20I inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 159, 178, [Sch. 11 para. 3](#); S.I. 2005/1521, [art. 3\(1\)\(v\)](#)

**F34** Words in Sch. 3 para. 20D(2) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 8](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)

#### *Other investigations: action by appropriate authority*

- 20E (1) This paragraph applies where—
- (a) a statement and a special report on an investigation carried out by an appropriate authority on its own behalf, or
  - (b) a statement and a special report on an investigation carried out under the supervision of the Commission,
- are submitted to the appropriate authority under paragraph 20A(2) or (3).
- (2) The appropriate authority shall determine whether the special conditions are satisfied.
- [<sup>F35</sup>(3) If the appropriate authority determines that the special conditions are satisfied then, unless it considers that the circumstances are such as to make it inappropriate to do so, it shall—
- (a) certify the case as a special case for the purposes of regulations under section 50(3) or 51(2A) of the 1996 Act; and
  - (b) take such steps as are required by those regulations in relation to a case so certified.]



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- (5) <sup>F36</sup> .....
- (6) Where the statement and report were required under paragraph 20A(2) to be copied to the Commission, the appropriate authority shall notify the Commission of a certification under sub-paragraph (3).
- (7) If the appropriate authority determines—
- (a) that the special conditions are not satisfied, or
  - (b) that, although those conditions are satisfied, the circumstances are such as to make it inappropriate at present to bring disciplinary proceedings,
- it shall notify the person [<sup>F37</sup>investigating the complaint or matter] of its determination.
- (8) In this paragraph “special conditions” has the meaning given by paragraph 20A(7).

#### Textual Amendments

- F26** Sch. 3 paras. 20A-20I inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 159, 178, [Sch. 11 para. 3](#); S.I. 2005/1521, [art. 3\(1\)\(v\)](#)
- F35** Sch. 3 para. 20E(3) substituted (1.12.2008) for Sch. 3 para. 20E(3)(4) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 9\(2\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F36** Sch. 3 para. 20E(5) repealed (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 149, 153, [Sch. 23 para. 9\(3\)](#), [Sch. 28 Pt. 8](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(k\)\(ii\)](#) (subject to art. 3)
- F37** Words in Sch. 3 para. 20E(7) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 9\(4\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)

#### *Other investigations: action by appropriate authority*

- 20F (1) If the appropriate authority certifies a case under paragraph 20E(3), it shall give a notification—
- (a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section 21; and
  - (b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.
- (2) The notification required by sub-paragraph (1) is one setting out—
- (a) the findings of the report;
  - (b) the authority's determination under paragraph 20E(2); and
  - (c) the action that the authority is required to take in consequence of that determination.
- (3) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the appropriate authority by sub-paragraph (1) as they have effect in relation to the duties imposed on the appropriate authority by that section.
- (4) Except so far as may be otherwise provided by regulations made by virtue of sub-paragraph (3), the appropriate authority shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (1) notification of the findings of the special report by sending that person a copy of that report.

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#### Textual Amendments

- F26** Sch. 3 paras. 20A-20I inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 159, 178, [Sch. 11 para. 3](#); S.I. 2005/1521, [art. 3\(1\)\(v\)](#)

20G **F38** .....

#### Textual Amendments

- F26** Sch. 3 paras. 20A-20I inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 159, 178, [Sch. 11 para. 3](#); S.I. 2005/1521, [art. 3\(1\)\(v\)](#)
- F38** Sch. 3 para. 20G and preceding cross-heading repealed (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 149, 153, [Sch. 23 para. 10](#), [Sch. 28 Pt. 8](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(k\)\(ii\)](#) (subject to [art. 3](#))

#### *Special cases: recommendation or direction of Commission*

- 20H (1) Where the appropriate authority has submitted, or is required to submit, a memorandum to the Commission under paragraph 20B(7), the Commission may make a recommendation to the appropriate authority that it should certify the case under paragraph 20B(3).
- (2) If the Commission determines to make a recommendation under this paragraph, it shall give a notification—
- (a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section 21; and
  - (b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.
- (3) The notification required by sub-paragraph (2) is one setting out—
- (a) the findings of the special report; and
  - (b) the Commission's recommendation under this paragraph.
- (4) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the Commission by sub-paragraph (2) as they have effect in relation to the duties imposed on the Commission by that section.
- (5) Except so far as may be otherwise provided by regulations made by virtue of sub-paragraph (4), the Commission shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (2) notification of the findings of the special report by sending that person a copy of the report.
- (6) It shall be the duty of the appropriate authority to notify the Commission whether it accepts the recommendation and (if it does) to certify the case and proceed accordingly.
- (7) If, after the Commission has made a recommendation under this paragraph, the appropriate authority does not certify the case under paragraph 20B(3)—
- (a) the Commission may direct the appropriate authority so to certify it; and
  - (b) it shall be the duty of the appropriate authority to comply with the direction and proceed accordingly.



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- (8) Where the Commission gives the appropriate authority a direction under this paragraph, it shall supply the appropriate authority with a statement of its reasons for doing so.
- (9) The Commission may at any time withdraw a direction given under this paragraph.
- (10) The appropriate authority shall keep the Commission informed of whatever action it takes in response to a recommendation or direction.

#### Textual Amendments

**F26** Sch. 3 paras. 20A-20I inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 159, 178, [Sch. 11 para. 3](#); S.I. 2005/1521, [art. 3\(1\)\(v\)](#)

#### *Special cases: recommendation or direction of Commission*

- 20I (1) Where—
- (a) the Commission makes a recommendation under paragraph 20H in the case of an investigation of a complaint, and
  - (b) the appropriate authority notifies the Commission that the recommendation has been accepted,
- the Commission shall notify the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21 of that fact and of the steps that have been, or are to be, taken by the appropriate authority to give effect to it.
- (2) Where in the case of an investigation of a complaint the appropriate authority—
- (a) notifies the Commission that it does not accept the recommendation made by the Commission under paragraph 20H, or
  - (b) fails to certify the case under paragraph 20B(3) and to proceed accordingly,
- it shall be the duty of the Commission to determine what (if any) further steps to take under paragraph 20H.
- (3) It shall be the duty of the Commission to notify the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21—
- (a) of any determination under sub-paragraph (2) not to take further steps under paragraph 20H; and
  - (b) where it determines under that sub-paragraph to take further steps under that paragraph, of the outcome of the taking of those steps.]

#### Textual Amendments

**F26** Sch. 3 paras. 20A-20I inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 159, 178, [Sch. 11 para. 3](#); S.I. 2005/1521, [art. 3\(1\)\(v\)](#)

#### *Power<sup>F39</sup> ... to discontinue an investigation*

- 21 <sup>F40</sup>(1) The Commission may by order require the discontinuance of the investigation of a complaint or matter if (whether on the application of the appropriate authority or otherwise) it appears to the Commission that—

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- (a) the complaint or matter is of a description specified in regulations made by the Secretary of State for the purposes of this paragraph, and
  - (b) discontinuance of the investigation is within the Commission's power.
- (1A) The appropriate authority that is investigating a complaint or matter may discontinue the investigation if it appears to that authority that—
- (a) the complaint or matter is of a description specified in regulations made by the Secretary of State for the purposes of this paragraph, and
  - (b) discontinuance of the investigation is not within the Commission's power.
- (1B) For the purposes of this paragraph—
- (a) discontinuance of the investigation of a complaint is within the Commission's power if—
    - (i) the investigation is being undertaken by the appropriate authority on its own behalf and the complaint is one required to be referred to the Commission under paragraph 4; or
    - (ii) the investigation is under the supervision or management of the Commission;
  - (b) discontinuance of the investigation of a matter other than a complaint is within the Commission's power if the investigation is under the supervision or management of the Commission.]
- (2) The Commission shall not discontinue any investigation that is being carried out in accordance with paragraph 19 except in such cases as may be authorised by regulations made by the Secretary of State.
- (3) Where the Commission makes an order under this paragraph or discontinues an investigation being carried out in accordance with paragraph 19, it shall give notification of the discontinuance—
- (a) to the appropriate authority;
  - (b) to every person entitled to be kept properly informed in relation to the subject matter of the investigation under section 21; and
  - (c) in a case where the investigation that is discontinued is an investigation of a complaint, to the complainant.
- [<sup>F41</sup>(3A) Where the appropriate authority discontinues an investigation under sub-paragraph (1A), the appropriate authority shall give notification of the discontinuance—
- (a) to every person entitled to be kept properly informed in relation to the investigation under section 21; and
  - (b) in a case where the investigation that is discontinued is an investigation of a complaint, to the complainant.]
- (4) Where an investigation of a complaint[<sup>F42</sup>, recordable conduct matter or DSI matter] is discontinued [<sup>F43</sup>in accordance with an order under sub-paragraph (1)]—
- (a) the Commission may give the appropriate authority directions to do any such things as it is authorised to direct by regulations made by the Secretary of State;
  - (b) the Commission may itself take any such steps of a description specified in regulations so made as it considers appropriate for purposes connected with the discontinuance of the investigation; and

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- (c) subject to the preceding paragraphs, neither the appropriate authority nor the Commission shall take any further action in accordance with the provisions of this Schedule in relation to that complaint or matter.
- (5) The appropriate authority shall comply with any directions given to it under sub-paragraph (4).
- [<sup>F44</sup>(6) Where an investigation of a complaint, recordable conduct matter or DSI matter is discontinued in accordance with sub-paragraph (1A)—
- (a) the appropriate authority may take any such steps of a description specified in regulations made by the Secretary of State as he or it considers appropriate for purposes connected with the discontinuance of the investigation; and
  - (b) subject to the preceding paragraphs, neither the appropriate authority nor the Commission shall take any further action in accordance with the provisions of this Schedule in relation to that complaint or matter.]
- [<sup>F45</sup>(7) The complainant shall have a right of appeal to the relevant appeal body against any decision by the appropriate authority under sub-paragraph (1A) to discontinue the investigation of the complaint.
- (8) But the complainant has no right of appeal if the complaint relates to a direction and control matter.
- (9) On an appeal under this paragraph, subject to sub-paragraphs (10) and (11), the relevant appeal body shall—
- (a) determine whether any decision taken by the appropriate authority under this paragraph should have been taken in the case in question; and
  - (b) if the relevant appeal body finds in the complainant's favour, give such directions as the relevant appeal body thinks appropriate to the local policing body or chief officer as to the action to be taken for investigating the complaint;
- and it shall be the duty of a local policing body or chief officer to comply with any directions given under paragraph (b).
- (10) Sub-paragraph (9) does not apply in a case where a particular chief officer of police is—
- (a) the person in respect of whose decision an appeal is made under this paragraph, and
  - (b) the relevant appeal body in relation to the appeal.
- (11) In such a case—
- (a) the appeal shall determine whether any decision taken by the appropriate authority under this paragraph should have been taken in the case in question; and
  - (b) if the appeal finds in the complainant's favour, the chief officer of police must take such action as the chief officer thinks appropriate for investigating the complaint.]

#### Textual Amendments

**F39** Words in Sch. 3 para. 21 omitted (22.11.2012) by virtue of [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 13\(2\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)

*Status: Point in time view as at 22/11/2012.*

*Changes to legislation: Police Reform Act 2002, Part 3 is up to date with all changes known to be in force on or before 25 April 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)*

- F40** Sch. 3 para. 21(1)-(1B) substituted for Sch. 3 para. 21(1) (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 13\(4\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F41** Sch. 3 para. 21(3A) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 13\(5\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F42** Words in Sch. 3 para. 21(4) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 19](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F43** Words in Sch. 3 para. 21(4) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 13\(6\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F44** Sch. 3 para. 21(6) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 13\(7\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F45** Sch. 3 para. 21(7)-(11) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 19\(2\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)

#### **Modifications etc. (not altering text)**

- C9** Sch. 3 para. 21 applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(4\)\(6\)](#), Sch. 3

#### **Commencement Information**

- I7** Sch. 3 para. 21 wholly in force at 1.4.2004; Sch. 3 para. 21 not in force at Royal Assent see s. 108(2); Sch. 3 para. 21 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), [art. 4\(e\)](#); Sch. 3 para. 21 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), [art. 2\(d\)](#)

#### *Procedure where conduct matter is revealed during investigation of DSI matter*

- [<sup>F46</sup>21A(1)] If during the course of an investigation of a DSI matter it appears to a person appointed under paragraph 18 or designated under paragraph 19 that there is an indication that a person serving with the police (“the person whose conduct is in question”) may have—
- (a) committed a criminal offence, or
  - (b) behaved in a manner which would justify the bringing of disciplinary proceedings,
- he shall make a submission to that effect to the Commission.
- (2) If, after considering a submission under sub-paragraph (1), the Commission determines that there is such an indication, it shall—
- (a) notify the appropriate authority in relation to the DSI matter and (if different) the appropriate authority in relation to the person whose conduct is in question of its determination; and
  - (b) send to it (or each of them) a copy of the submission under sub-paragraph (1).
- (3) If during the course of an investigation of a DSI matter it appears to a person appointed under paragraph 16 or 17 that there is an indication that a person serving with the police (“the person whose conduct is in question”) may have—
- (a) committed a criminal offence, or
  - (b) behaved in a manner which would justify the bringing of disciplinary proceedings,
- he shall make a submission to that effect to the appropriate authority in relation to the DSI matter.
- (4) If, after considering a submission under sub-paragraph (3), the appropriate authority determines that there is such an indication, it shall—

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- (a) if it is not the appropriate authority in relation to the person whose conduct is in question, notify that other authority of its determination and send to that authority a copy of the submission under sub-paragraph (3); and
  - (b) notify the Commission of its determination and send to it a copy of the submission under sub-paragraph (3).
- (5) Where the appropriate authority in relation to the person whose conduct is in question—
- (a) is notified of a determination by the Commission under sub-paragraph (2),
  - (b) (in a case where it is also the appropriate authority in relation to the DSI matter) makes a determination under sub-paragraph (4), or
  - (c) (in a case where it is not the appropriate authority in relation to the DSI matter) is notified by that other authority of a determination by it under sub-paragraph (4),

it shall record the matter under paragraph 11 as a conduct matter <sup>F47</sup> . . . .

[ Where a DSI matter is recorded under paragraph 11 as a conduct matter by virtue <sup>F48</sup>(6) of sub-paragraph (5)—

- (a) the person investigating the DSI matter shall (subject to any determination made by the Commission under paragraph 15(5)) continue the investigation as if appointed or designated to investigate the conduct matter, and
- (b) the other provisions of this Schedule shall apply in relation to that matter accordingly.]]

**Textual Amendments**

- F46** Sch. 3 para. 21A inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 20](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F47** Words in Sch. 3 para. 21A(5) repealed (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 149, 153, [Sch. 23 para. 11\(2\)](#), [Sch. 28 Pt. 8](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(k\)\(ii\)](#) (subject to art. 3)
- F48** Sch. 3 para. 21A(6) inserted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 11\(3\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)

**Modifications etc. (not altering text)**

- C10** Sch. 3 para. 21A applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(4\)\(6\)](#), Sch. 3

*Final reports on investigations: complaints, conduct matters and certain DSI matters*

[<sup>F49</sup>22 (1) This paragraph applies on the completion of an investigation of—

- (a) a complaint, [<sup>F50</sup> or]
- (b) a conduct matter, or
- (c) <sup>F51</sup> .....

(2) A person appointed under paragraph 16 shall submit a report on his investigation to the appropriate authority.

- (3) A person appointed under paragraph 17 or 18 shall—
- (a) submit a report on his investigation to the Commission; and
  - (b) send a copy of that report to the appropriate authority.

*Status: Point in time view as at 22/11/2012.*

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- (4) In relation to [<sup>F52</sup>a matter that was formerly a DSI matter but has been recorded as a conduct matter in pursuance of paragraph 21A(5)], the references in sub-paragraphs (2) and (3) of this paragraph to the appropriate authority are references to—
- (a) the appropriate authority in relation to the DSI matter; and
  - (b) (where different) the appropriate authority in relation to the person whose conduct is in question.
- (5) A person designated under paragraph 19 as the person in charge of an investigation by the Commission itself shall submit a report on it to the Commission.
- (6) A person submitting a report under this paragraph shall not be prevented by any obligation of secrecy imposed by any rule of law or otherwise from including all such matters in his report as he thinks fit.
- [<sup>F53</sup>(7) The Secretary of State may by regulations make provision requiring a report on an investigation within paragraph 19C(1)(a) or (b)—
- (a) to include such matters as are specified in the regulations;
  - (b) to be accompanied by such documents or other items as are so specified.
- (8) A person who has submitted a report under this paragraph on an investigation within paragraph 19C(1)(a) or (b) must supply the appropriate authority with such copies of further documents or other items in that person's possession as the authority may request.
- (9) The appropriate authority may only make a request under sub-paragraph (8) in respect of a copy of a document or other item if the authority—
- (a) considers that the document or item is of relevance to the investigation, and
  - (b) requires a copy of the document or the item for either or both of the purposes mentioned in sub-paragraph (10).
- (10) Those purposes are—
- (a) complying with any obligation under regulations under section 50(3) or 51(2A) of the 1996 Act which the authority has in relation to any person to whose conduct the investigation related;
  - (b) ensuring that any such person receives a fair hearing at any disciplinary proceedings in respect of any such conduct of his.]]

#### Textual Amendments

- F49** Sch. 3 para. 22 substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 21](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F50** Word in Sch. 3 para. 22(1)(a) inserted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 12\(2\)\(a\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F51** Sch. 3 para. 22(1)(c) repealed (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 149, 153, [Sch. 23 para. 12\(2\)\(b\)](#), [Sch. 28 Pt. 8](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(k\)\(ii\)](#) (subject to art. 3)
- F52** Words in Sch. 3 para. 22(4) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 12\(3\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(ii\)](#) (subject to art. 3)
- F53** Sch. 3 para. 22(7)-(10) inserted (3.11.2008 for certain purposes and 1.12.2008 otherwise) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 12\(4\)](#) (with s. 14(1)); S.I. 2008/2712, [art. 2](#), [Sch. para. 17\(b\)](#) (subject to arts. 3, 4); S.I. 2008/2993, [art. 2\(1\)\(i\)\(ii\)](#) (subject to art. 3)

*Status: Point in time view as at 22/11/2012.*

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**Modifications etc. (not altering text)**

- C11** Sch. 3 para. 22 applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(4\)\(6\)](#), Sch. 3

**Commencement Information**

- I8** Sch. 3 para. 22 wholly in force at 1.4.2004; Sch. 3 para. 22 not in force at Royal Assent see s. 108(2); Sch. 3 para. 22 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), [art. 4\(e\)](#); Sch. 3 para. 22 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), [art. 2\(d\)](#)

*Action by the Commission in response to an investigation report [F54 under paragraph 22]*

- 23 (1) This paragraph applies where—
- (a) a report on an investigation carried out under the management of the Commission is submitted to it under sub-paragraph [F55(3)] of paragraph 22; or
  - (b) a report on an investigation carried out by a person designated by the Commission is submitted to it under sub-paragraph [F56(5)] of that paragraph.
- (2) On receipt of the report, the Commission—
- (a) if it appears that the appropriate authority has not already been sent a copy of the report, shall send a copy of the report to that authority;
  - [F57](b) shall determine whether the conditions set out in sub-paragraphs (2A) and (2B) are satisfied in respect of the report;
  - (c) if it determines that [F58 those conditions are so satisfied], shall notify the Director of Public Prosecutions of the determination and send him a copy of the report; and
  - (d) shall notify the appropriate authority [F59 and the persons mentioned in sub-paragraph (5)] of its determination under paragraph (b) and of any action taken by it under paragraph (c).
- [F60(2A) The first condition is that the report indicates that a criminal offence may have been committed by a person to whose conduct the investigation related.
- (2B) The second condition is that—
- (a) the circumstances are such that, in the opinion of the Commission, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions, or
  - (b) any matters dealt with in the report fall within any prescribed category of matters.]
- (3) The Director of Public Prosecutions shall notify the Commission of any decision of his to take, or not to take, action in respect of the matters dealt with in any report a copy of which has been sent to him under sub-paragraph (2)(c).
- (4) It shall be the duty of the Commission to notify the persons mentioned in sub-paragraph (5) if criminal proceedings are brought against any person by the Director of Public Prosecutions in respect of any matters dealt with in a report copied to him under sub-paragraph (2)(c).
- (5) [F61The] persons are—



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- (a) in the case of a complaint, the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21; and
  - (b) in the case of a recordable conduct matter, every person entitled to be kept properly informed in relation to that matter under that section.
- [<sup>F62</sup>(6) On receipt of the report, the Commission shall also notify the appropriate authority that it must—
- (a) in accordance with regulations under section 50 or 51 of the 1996 Act, determine—
    - (i) whether any person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer, and
    - [<sup>F63</sup>(ia) whether or not any such person's performance is unsatisfactory, and]
    - (ii) what action (if any) the authority is required to, or will in its discretion, take in respect of the matters dealt with in the report, and
  - (b) determine what other action (if any) the authority will in its discretion take in respect of those matters.”
- (7) On receipt of a notification under sub-paragraph (6) the appropriate authority shall make those determinations and submit a memorandum to the Commission which—
- (a) sets out the determinations the authority has made, and
  - (b) if the appropriate authority has decided in relation to any person to whose conduct the investigation related that disciplinary proceedings should not be brought against that person, sets out its reasons for so deciding.]
- (8) On receipt of a memorandum under sub-paragraph (7), the Commission shall—
- (a) consider the memorandum and whether the appropriate authority [<sup>F64</sup>has made the determinations under sub-paragraph (6)(a)] that the Commission considers appropriate in respect of the matters dealt with in the report;
  - (b) determine, in the light of its consideration of those matters, whether or not to make recommendations under paragraph 27; and
  - (c) make such recommendations (if any) under that paragraph as it thinks fit.
- (9) On the making of a determination under sub-paragraph (8)(b) the Commission shall give a notification—
- (a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section 21; and
  - (b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.
- (10) The notification required by sub-paragraph (9) is one setting out—
- (a) the findings of the report;
  - (b) the Commission’s determination under sub-paragraph (8)(b); and
  - (c) the action which the appropriate authority is to be recommended to take as a consequence of the determination.
- (11) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the Commission by sub-paragraph (9) of this paragraph as they have effect in relation to the duties imposed on the Commission by that section.
- (12) Except so far as may be otherwise provided by regulations made by virtue of sub-paragraph (11), the Commission shall be entitled (notwithstanding any obligation of



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secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (9) notification of the findings of the report by sending that person a copy of the report.

[<sup>F65</sup>(13) In relation to a DSI matter in respect of which a determination has been made under paragraph 21A(2) or (4), the references in this paragraph to the appropriate authority are references to the appropriate authority in relation to the person whose conduct is in question.]

#### Textual Amendments

- F54** Words in Sch. 3 para. 23 heading inserted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 160, 178, **Sch. 12 para. 22(1)**; S.I. 2005/1521, **art. 3(1)(w)**
- F55** Word in Sch. 3 para. 23(1)(a) substituted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 160, 178, **Sch. 12 para. 22(2)(a)**; S.I. 2005/1521, **art. 3(1)(w)**
- F56** Word in Sch. 3 para. 23(1)(b) substituted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 160, 178, **Sch. 12 para. 22(2)(b)**; S.I. 2005/1521, **art. 3(1)(w)**
- F57** Sch. 3 para. 23(2)(b) substituted (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 127, 153, **Sch. 23 para. 13(2)(a)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F58** Words in Sch. 3 para. 23(2)(c) substituted (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 127, 153, **Sch. 23 para. 13(2)(b)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F59** Words in Sch. 3 para. 23(2)(d) inserted (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 127, 153, **Sch. 23 para. 13(2)(c)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F60** Sch. 3 para. 23(2A)(2B) inserted (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 127, 153, **Sch. 23 para. 13(3)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F61** Word in Sch. 3 para. 23(5) substituted (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 127, 153, **Sch. 23 para. 13(4)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F62** Sch. 3 para. 23(6)(7) substituted (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 127, 153, **Sch. 23 para. 13(5)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F63** Sch. 3 para. 23(6)(a)(ia) inserted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 14(2)**; S.I. 2012/2892, **art. 2(g)** (with art. 6)
- F64** Words in Sch. 3 para. 23(8)(a) substituted (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 127, 153, **Sch. 23 para. 13(6)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F65** Sch. 3 para. 23(13) inserted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 160, 178, **Sch. 12 para. 22(3)**; S.I. 2005/1521, **art. 3(1)(w)**

#### Modifications etc. (not altering text)

- C12** Sch. 3 para. 23 applied (with modifications) (28.12.2005) by virtue of The Revenue and Customs (Complaints and Misconduct) Regulations 2005 (S.I. 2005/3311), **reg. 3(4)(6)**, Sch. 3

#### Commencement Information

- I9** Sch. 3 para. 23 wholly in force at 1.4.2004; Sch. 3 para. 23 not in force at Royal Assent see s. 108(2); Sch. 3 para. 23 in force for specified purposes at 1.10.2002 by S.I. 2002/2306, **art. 4(e)**; Sch. 3 para. 23 in force in so far as not already in force at 1.4.2004 by S.I. 2004/913, **art. 2(d)**

*Action by the appropriate authority in response to an investigation report [<sup>F66</sup>under paragraph 22]*

- 24 (1) This paragraph applies where—
- (a) a report of an investigation is submitted to the appropriate authority in accordance with paragraph [<sup>F67</sup>22(2)] ; or

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- (b) a copy of a report on an investigation carried out under the supervision of the Commission is sent to the appropriate authority in accordance with paragraph [F6822(3)] .
- (2) On receipt of the report or (as the case may be) of the copy, the appropriate authority—
- [F69(a) shall determine whether the conditions set out in sub-paragraphs (2A) and (2B) are satisfied in respect of the report;]
- (b) if it determines that [F70those conditions are so satisfied], shall notify the Director of Public Prosecutions of the determination and send him a copy of the report[F71 and
- (c) shall notify the persons mentioned in sub-paragraph (5) of its determination under paragraph (a) and of any action taken by it under paragraph (b).]
- [F72(2A) The first condition is that the report indicates that a criminal offence may have been committed by a person to whose conduct the investigation related.
- (2B) The second condition is that—
- (a) the circumstances are such that, in the opinion of the appropriate authority, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions, or
- (b) any matters dealt with in the report fall within any prescribed category of matters.]
- (3) The Director of Public Prosecutions shall notify the appropriate authority of any decision of his to take, or not to take, action in respect of the matters dealt with in any report a copy of which has been sent to him under sub-paragraph (2).
- (4) It shall be the duty of the appropriate authority to notify the persons mentioned in sub-paragraph (5) if criminal proceedings are brought against any person by the Director of Public Prosecutions in respect of any matters dealt with in a report copied to him under sub-paragraph (2)(b).
- (5) [F73The] persons are—
- (a) in the case of a complaint, the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21; and
- (b) in the case of a recordable conduct matter, every person entitled to be kept properly informed in relation to that matter under that section.
- [F74(5A) In the case of a report falling within sub-paragraph (1)(b) which relates to a recordable conduct matter, the appropriate authority shall also notify the Commission of its determination under sub-paragraph (2)(a).
- (5B) On receipt of such a notification that the appropriate authority has determined that the conditions in sub-paragraphs (2A) and (2B) are not satisfied in respect of the report, the Commission—
- (a) shall make its own determination as to whether those conditions are so satisfied, and
- (b) if it determines that they are so satisfied, shall direct the appropriate authority to notify the Director of Public Prosecutions of the Commission's determination and to send the Director a copy of the report.
- (5C) It shall be the duty of the appropriate authority to comply with any direction given to it under sub-paragraph (5B).]

*Status: Point in time view as at 22/11/2012.*

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- [<sup>F75</sup>(6) On receipt of the report or (as the case may be) copy, the appropriate authority shall also—
- (a) in accordance with regulations under section 50 or 51 of the 1996 Act, determine—
    - (i) whether any person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer, and
    - [<sup>F76</sup>(ia) whether or not any such person's performance is unsatisfactory, and]
    - (ii) what action (if any) the authority is required to, or will in its discretion, take in respect of the matters dealt with in the report, and
  - (b) determine what other action (if any) the authority will in its discretion take in respect of those matters.]
- (7) On the making of [<sup>F77</sup>the determinations] under sub-paragraph (6) the appropriate authority shall give a notification—
- (a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section 21; and
  - (b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.
- (8) The notification required by sub-paragraph (7) is one setting out—
- (a) the findings of the report;
  - [<sup>F78</sup>(b) the determinations the authority has made under sub-paragraph (6);]
  - (d) the complainant's right of appeal under paragraph 25.
- (9) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the appropriate authority by sub-paragraph (7) of this paragraph as they have effect in relation to the duties imposed on the appropriate authority by that section.
- (10) Except so far as may be otherwise provided by regulations made by virtue of sub-paragraph (9), the appropriate authority shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (7) notification of the findings of the report by sending that person a copy of the report.
- [<sup>F79</sup>(11) In relation to a DSI matter in respect of which a determination has been made under paragraph 21A(2) or (4), the references in this paragraph to the appropriate authority are references to the appropriate authority in relation to the person whose conduct is in question.]

#### Textual Amendments

- F66** Words in Sch. 3 para. 24 heading inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 23\(1\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F67** Words in Sch. 3 para. 24(1)(a) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 23\(2\)\(a\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F68** Words in Sch. 3 para. 24(1)(b) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 23\(2\)\(b\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F69** Sch. 3 para. 24(2)(a) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 14\(2\)\(a\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)

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- F70** Words in Sch. 3 para. 24(2)(b) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 14\(2\)\(b\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F71** Sch. 3 para. 24(2)(c) and word inserted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 14\(2\)\(c\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F72** Sch. 3 para. 24(2A)(2B) inserted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 14\(3\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F73** Word in Sch. 3 para. 24(5) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 14\(4\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F74** Sch. 3 para. 24(5A)-(5C) inserted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 14\(5\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F75** Sch. 3 para. 24(6) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 14\(6\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F76** Sch. 3 para. 24(6)(a)(ia) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 14\(3\)](#); S.I. 2012/2892, [art. 2\(g\)](#) (with art. 6)
- F77** Words in Sch. 3 para. 24(7) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 14\(7\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F78** Sch. 3 para. 24(8)(b) substituted (1.12.2008) for Sch. 3 para. 24(8)(b)(c) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 14\(8\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F79** Sch. 3 para. 24(11) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 23\(3\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)

#### **Modifications etc. (not altering text)**

- C13** Sch. 3 para. 24 applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(4\)\(6\)](#), Sch. 3

#### **Commencement Information**

- I10** Sch. 3 para. 24 wholly in force at 1.4.2004; Sch. 3 para. 24 not in force at Royal Assent see s. 108(2); Sch. 3 para. 24 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), [art. 4\(e\)](#); Sch. 3 para. 24 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), [art. 2\(d\)](#)

#### *Final reports on investigations: other DSI matters*

[<sup>F80</sup>24A(1)] This paragraph applies on the completion of an investigation of a DSI matter in respect of which neither the Commission nor the appropriate authority has made a determination under paragraph 21A(2) or (4).

- (2) [<sup>F81</sup>The person investigating] shall—
- (a) submit a report on the investigation to the Commission; and
  - (b) send a copy of that report to the appropriate authority.
- (3) A person submitting a report under this paragraph shall not be prevented by any obligation of secrecy imposed by any rule of law or otherwise from including all such matters in his report as he thinks fit.
- (4) On receipt of the report, the Commission shall determine whether the report indicates that a person serving with the police may have—
- (a) committed a criminal offence, or
  - (b) behaved in a manner which would justify the bringing of disciplinary proceedings.

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#### Textual Amendments

- F80** Sch. 3 paras. 24A-24C inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 24](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F81** Words in Sch. 3 para. 24A(2) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 15](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)

#### *Action by the Commission in response to an investigation report under paragraph 24A*

- 24B (1) If the Commission determines under paragraph 24A(4) that the report indicates that a person serving with the police may have—
- committed a criminal offence, or
  - behaved in a manner which would justify the bringing of disciplinary proceedings,

it shall notify the appropriate authority in relation to the person whose conduct is in question of its determination and, if it appears that that authority has not already been sent a copy of the report, send a copy of the report to that authority.

- (2) Where the appropriate authority in relation to the person whose conduct is in question is notified of a determination by the Commission under sub-paragraph (1), it shall record the matter under paragraph 11 as a conduct matter <sup>F82</sup> . . . .

[ Where a DSI matter is recorded under paragraph 11 as a conduct matter by virtue <sup>F83</sup> of sub-paragraph (2)—

- the person investigating the DSI matter shall (subject to any determination made by the Commission under paragraph 15(5)) investigate the conduct matter as if appointed or designated to do so, and
- the other provisions of this Schedule shall apply in relation to that matter accordingly.]

#### Textual Amendments

- F80** Sch. 3 paras. 24A-24C inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 24](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F82** Words in Sch. 3 para. 24B(2) repealed (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 149, 153, [Sch. 23 para. 16\(2\)](#), [Sch. 28 Pt. 8](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(k\)\(ii\)](#) (subject to art. 3)
- F83** Sch. 3 para. 24B(3) inserted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 16\(3\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)

- 24C (1) If the Commission determines under paragraph 24A(4) that there is no indication in the report that a person serving with the police may have—
- committed a criminal offence, or
  - behaved in a manner which would justify the bringing of disciplinary proceedings,

it shall make such recommendations or give such advice under section 10(1)(e) (if any) as it considers necessary or desirable.

- (2) Sub-paragraph (1) does not affect any power of the Commission to make recommendations or give advice under section 10(1)(e) in other cases (whether arising under this Schedule or otherwise).]

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### Textual Amendments

**F80** Sch. 3 paras. 24A-24C inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 24](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)

*Appeals*<sup>F84</sup> ... with respect to an investigation

- 25 (1) This paragraph applies where a complaint has been subjected to—
- (a) an investigation by the appropriate authority on its own behalf; or
  - (b) an investigation under the supervision of the Commission.
- (2) The complainant shall have the following rights of appeal [<sup>F85</sup>to the relevant appeal body] —
- (a) a right to appeal on the grounds that he has not been provided with adequate information—
    - (i) about the findings of the investigation; or
    - [<sup>F86</sup>(ii) about any determination of the appropriate authority relating to the taking (or not taking) of action in respect of any matters dealt with in the report on the investigation;]
  - (b) a right to appeal against the findings of the investigation; <sup>F87</sup> . . .
  - [<sup>F88</sup>(ba) a right of appeal against any determination by the appropriate authority that a person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer [<sup>F89</sup>or that such a person's performance is, or is not, unsatisfactory];
  - (c) a right of appeal against any determination by the appropriate authority relating to the taking (or not taking) of action in respect of any matters dealt with in the report; and
  - (d) a right of appeal against any determination by the appropriate authority under paragraph 24(2)(a) as a result of which it is not required to send the Director of Public Prosecutions a copy of the report;]

and it shall be the duty of the [<sup>F90</sup>relevant appeal body] to notify the appropriate authority, every person entitled to be kept properly informed in relation to the complaint under section 21 and the person complained against of any appeal brought under this paragraph [<sup>F91</sup>(except that the duty to notify the appropriate authority does not apply where that authority is the relevant appeal body)].

[<sup>F92</sup>(2ZA) But the complainant has no right of appeal if the complaint relates to a direction and control matter.]

[<sup>F93</sup>(2A) In sub-paragraph (2)—

- (a) references to the findings of an investigation do not include a reference to findings on a report submitted under paragraph 20A; and
- (b) references to the report of an investigation do not include a reference to a report submitted under that paragraph.]

(3) On the bringing of an appeal under this paragraph, the Commission may require the appropriate authority to submit a memorandum to the Commission which—

- [<sup>F94</sup>(za) sets out whether the appropriate authority has determined that a person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer;]



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- [<sup>F95</sup>(zb) sets out whether the appropriate authority has determined any such person's performance is, or is not, unsatisfactory;]
- [<sup>F96</sup>(a) sets out what action (if any) the authority has determined that it is required to or will, in its discretion, take in respect of the matters dealt with in the report;]
- (c) if the appropriate authority has decided in relation to [<sup>F97</sup>a person to whose conduct the investigation related] that disciplinary proceedings should not be brought against that person, sets out its reasons for so deciding; [<sup>F98</sup> and
- (d) if the appropriate authority made a determination under paragraph 24(2) (a) as a result of which it is not required to send the Director of Public Prosecutions a copy of the report, sets out the reasons for that determination;]
- and it shall be the duty of the appropriate authority to comply with any requirement under this sub-paragraph.
- (4) Where the Commission so requires on the bringing of any appeal under this paragraph in the case of an investigation by the appropriate authority on its own behalf, the appropriate authority shall provide the Commission with a copy of the report of the investigation.
- (5) On an appeal under this paragraph, the [<sup>F99</sup>relevant appeal body] shall determine [<sup>F100</sup>such of the following as it considers appropriate in the circumstances]—
- (a) whether the complainant has been provided with adequate information about the matters mentioned in sub-paragraph (2)(a);
- (b) whether the findings of the investigation need to be reconsidered; <sup>F87</sup>...
- [<sup>F101</sup>(c) whether the appropriate authority—
- (i) has made such a determination as is mentioned in sub-paragraph (3) (za) [<sup>F102</sup>or (zb)] that the [<sup>F99</sup>relevant appeal body] considers to be appropriate in respect of the matters dealt with in the report, and
- (ii) has determined that it is required to or will, in its discretion, take the action (if any) that the [<sup>F99</sup>relevant appeal body] considers to be so appropriate; and
- (d) whether the conditions set out in paragraph 24(2A) and (2B) are satisfied in respect of the report.]
- (6) If, on an appeal under this paragraph, the [<sup>F103</sup>relevant appeal body] determines that the complainant has not been provided with adequate information about any matter [<sup>F104</sup>—
- (a) in a case where the Commission is the relevant appeal body,] the Commission shall give the appropriate authority all such directions as the Commission considers appropriate for securing that the complainant is properly informed [<sup>F105</sup>; and
- (b) in a case where the appropriate authority is the relevant appeal body, that authority shall take such steps as it considers appropriate for securing that the complainant is properly informed.]
- (7) Nothing in [<sup>F106</sup>sub-paragraph (6)(a)] shall authorise the Commission to require the disclosure of any information the disclosure of which to the appellant has been or is capable of being withheld by virtue of regulations made under section 20(5).

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- (8) If, on an appeal under this paragraph, the Commission determines that the findings of the investigation need to be reconsidered [<sup>F107</sup>in a case where the Commission is the relevant appeal body], it shall either—
- (a) review those findings without an immediate further investigation; or
  - (b) direct that the complaint be re-investigated<sup>F108</sup>; and
- in a case where the appropriate authority is the relevant appeal body, that authority shall re-investigate the complaint.]
- (9) If, on an appeal under this paragraph, the [<sup>F109</sup>relevant appeal body] determines that the appropriate authority [<sup>F110</sup>has not made a determination as to whether there is a case for a person to whose conduct the investigation related to answer that the [<sup>F109</sup>relevant appeal body]<sup>F111</sup>considers appropriate, or determines that the appropriate authority has not made a determination as to whether a person's performance is or is not unsatisfactory, or determines that the appropriate authority] has not determined that it is required to or will, in its discretion, take the action in respect of the matters dealt with in] the report that the [<sup>F109</sup>relevant appeal body]<sup>F112</sup>considers appropriate—
- (a) sub-paragraph (9ZA) applies if the Commission is the relevant appeal body; or
  - (b) sub-paragraph (9ZB) applies if the chief officer of police is the relevant appeal body.
- (9ZA) The Commission shall— ]
- (a) determine, in the light of that determination, whether or not to make recommendations under paragraph 27; and
  - (b) make such recommendations (if any) under that paragraph as it thinks fit.
- <sup>F113</sup>(9ZB) The chief officer of police shall take such action as the chief officer thinks appropriate in relation to the bringing of disciplinary proceedings in respect of the matters dealt with in the report.
- (9ZC) If disciplinary proceedings are brought by virtue of sub-paragraph (9ZB), it shall be the duty of the appropriate authority to ensure that they are proceeded with to a proper conclusion.]
- <sup>F114</sup>(9A) If, on an appeal under this paragraph, the [<sup>F115</sup>relevant appeal body] determines that the conditions set out paragraph 24(2A) and (2B) are satisfied in respect of the report, [<sup>F116</sup> in a case where the Commission is the relevant appeal body it shall direct the appropriate authority to, or in a case where the appropriate authority is the relevant appeal body it shall ] —
- (a) <sup>F117</sup>... notify the Director of Public Prosecutions of the <sup>F118</sup>... determination, and
  - (b) <sup>F119</sup>... send the Director a copy of the report.]
- (10) The [<sup>F120</sup>relevant appeal body] shall give notification of any determination under this paragraph—
- (a) to the appropriate authority [<sup>F121</sup>(unless it is the relevant appeal body)],
  - (b) to the complainant;
  - (c) to every person entitled to be kept properly informed in relation to the complaint under section 21; and



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- (d) except in a case where it appears to the [<sup>F122</sup>relevant appeal body] that to do so might prejudice any proposed review or re-investigation of the complaint, to the person complained against.
- (11) [<sup>F123</sup>In a case where the Commission is the relevant appeal body, it] shall also give notification of any directions given to the appropriate authority under this paragraph—
- (a) to the complainant;
  - (b) to every person entitled to be kept properly informed in relation to the complaint under section 21; and
  - (c) except in a case where it appears to the Commission that to do so might prejudice any proposed review or re-investigation of the complaint, to the person complained against.
- (12) It shall be the duty of the appropriate authority to comply with any directions given to it under this paragraph.
- (13) The Secretary of State may by regulations make provision—
- (a) for the form and manner in which appeals under this paragraph are to be brought;
  - (b) for the period within which any such appeal must be brought; and
  - (c) for the procedure to be followed by the [<sup>F124</sup>relevant appeal body] when dealing with or disposing of any such appeal.

#### Textual Amendments

- F84** Words in Sch. 3 para. 25 heading omitted (22.11.2012) by virtue of [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 20\(1\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F85** Words in Sch. 3 para. 25(2) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 20\(3\)\(a\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F86** Sch. 3 para. 25(2)(a)(ii) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 17\(2\)\(a\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F87** Word in Sch. 3 para. 25(2)(b)(5)(b) repealed (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 149, 153, [Sch. 28 Pt. 8](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(k\)\(ii\)](#) (subject to art. 3)
- F88** Sch. 3 para. 25(2)(ba)-(d) substituted (1.12.2008) for Sch. 3 para. 25(2)(c) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 17\(2\)\(b\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F89** Words in Sch. 3 para. 25(2)(ba) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 14\(4\)\(a\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F90** Words in Sch. 3 para. 25(2) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 20\(3\)\(b\)\(i\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F91** Words in Sch. 3 para. 25(2) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 20\(3\)\(b\)\(ii\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F92** Sch. 3 para. 25(2ZA) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 20\(4\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F93** Sch. 3 para. 25(2A) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 159, 178, [Sch. 11 para. 4](#); S.I. 2005/1521, [art. 3\(1\)\(v\)](#)
- F94** Sch. 3 para. 25(3)(za) inserted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 17\(3\)\(a\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F95** Sch. 3 para. 25(3)(zb) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 14\(4\)\(b\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)

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- F96** Sch. 3 para. 25(3)(a) substituted (1.12.2008) for Sch. 3 para. 25(3)(a)(b) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 127, 153, **Sch. 23 para. 17(3)(b)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F97** Words in Sch. 3 para. 25(3)(c) substituted (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 127, 153, **Sch. 23 para. 17(3)(c)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F98** Sch. 3 para. 25(3)(d) and word inserted (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 127, 153, **Sch. 23 para. 17(3)(d)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F99** Words in Sch. 3 para. 25(5) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(5)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F100** Words in Sch. 3 para. 25(5) inserted (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 127, 153, **Sch. 23 para. 17(4)(a)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F101** Sch. 3 para. 25(5)(c)(d) substituted (1.12.2008) for Sch. 3 para. 25(5)(c) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 127, 153, **Sch. 23 para. 17(4)(b)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F102** Words in Sch. 3 para. 25(5)(c)(i) inserted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 14(4)(c)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F103** Words in Sch. 3 para. 25(6) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(6)(a)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F104** Sch. 3 para. 25(6)(a) inserted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(6)(b)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F105** Sch. 3 para. 25(6)(b) and preceding word inserted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(6)(c)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F106** Words in Sch. 3 para. 25(7) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(7)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F107** Words in Sch. 3 para. 25(8) inserted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(8)(a)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F108** Words in Sch. 3 para. 25(8) inserted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(8)(b)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F109** Words in Sch. 3 para. 25(9) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(9)(a)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F110** Words in Sch. 3 para. 25(9) substituted (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 127, 153, **Sch. 23 para. 17(5)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F111** Words in Sch. 3 para. 25(9) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 14(4)(d)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F112** Words in Sch. 3 para. 25(9)(9ZA) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(9)(b)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F113** Sch. 3 para. 25(9ZB)(9ZC) inserted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(10)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F114** Sch. 3 para. 25(9A) inserted (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 127, 153, **Sch. 23 para. 17(6)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F115** Words in Sch. 3 para. 25(9A) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(11)(a)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F116** Words in Sch. 3 para. 25(9A) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(11)(b)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F117** Word in Sch. 3 para. 25(9A)(a) omitted (22.11.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(11)(c)(i)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F118** Word in Sch. 3 para. 25(9A)(a) omitted (22.11.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(11)(c)(ii)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F119** Word in Sch. 3 para. 25(9A)(b) omitted (22.11.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(11)(d)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F120** Words in Sch. 3 para. 25(10) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(12)(a)**; S.I. 2012/2892, art. 2(g) (with art. 6)

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**F121** Words in Sch. 3 para. 25(10)(a) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 14 para. 20\(12\)\(b\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)

**F122** Words in Sch. 3 para. 25(10)(d) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 14 para. 20\(12\)\(c\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)

**F123** Words in Sch. 3 para. 25(11) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 14 para. 20\(13\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)

**F124** Words in Sch. 3 para. 25(13) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 14 para. 20\(14\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)

#### **Modifications etc. (not altering text)**

**C14** Sch. 3 para. 25 applied (with modifications) (1.4.2006) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\), reg. 3\(5\)\(6\)](#), Sch. 3

#### **Commencement Information**

**I11** Sch. 3 para. 25 wholly in force at 1.4.2004; Sch. 3 para. 25 not in force at Royal Assent see s. 108(2); Sch. 3 para. 25 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306, art. 4\(e\)](#); Sch. 3 para. 25 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913, art. 2\(d\)](#)

### *Reviews and re-investigations following an appeal*

- 26 (1) On a review under paragraph 25(8)(a) of the findings of an investigation the powers of the Commission shall be, according to its determination on that review, to do one or more of the following—
- (a) to uphold the findings in whole or in part;
  - (b) to give the appropriate authority such directions—
    - (i) as to the carrying out by the appropriate authority of its own review of the findings,
    - (ii) as to the information to be provided to the complainant, and
    - (iii) generally as to the handling of the matter in future,as the Commission thinks fit;
  - (c) to direct that the complaint be re-investigated.
- (2) Where the Commission directs under paragraph 25 or sub-paragraph (1) that a complaint be re-investigated, it shall make a determination of the form that the re-investigation should take.
- (3) Sub-paragraphs (3) to (7) of paragraph 15 shall apply in relation to a determination under sub-paragraph (2) as they apply in the case of a determination under that paragraph.
- (4) The other provisions of this Schedule (including this paragraph) shall apply in relation to any re-investigation in pursuance of a direction under paragraph 25(8) or sub-paragraph (1) of this paragraph as they apply in relation to any investigation in pursuance of a determination under paragraph 15.
- (5) The Commission shall give notification of any determination made by it under this paragraph—
- (a) to the appropriate authority;
  - (b) to the complainant;
  - (c) to every person entitled to be kept properly informed in relation to the complaint under section 21; and

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- (d) except in a case where it appears to the Commission that to do so might prejudice any proposed re-investigation of the complaint, to the person complained against.
- (6) The Commission shall also give notification of any directions given to the appropriate authority under this paragraph —
  - (a) to the complainant;
  - (b) to every person entitled to be kept properly informed in relation to the complaint under section ; and
  - (c) except in a case where it appears to the Commission that to do so might prejudice any proposed review or re-investigation of the complaint, to the person complained against.

**Modifications etc. (not altering text)**

**C15** Sch. 3 para. 26 applied (with modifications) (1.4.2006) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(5\)\(6\)](#), Sch. 3

**Commencement Information**

**I12** Sch. 3 para. 26 wholly in force at 1.4.2004; Sch. 3 para. 26 not in force at Royal Assent see s. 108(2); Sch. 3 para. 26 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), [art. 4\(e\)](#); Sch. 3 para. 26 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), [art. 2\(d\)](#)

*Duties with respect to disciplinary proceedings*

- 27 (1) This paragraph applies where, in the case of any investigation, the appropriate authority—
- (a) has given, or is required to give, a notification under paragraph 24(7) of the action it is [<sup>F125</sup>required to or will, in its discretion,] take in relation to the matters dealt with in any report of the investigation; or
  - (b) has submitted, or is required to submit, a memorandum to the Commission under paragraph 23 or 25 setting out the action that it is [<sup>F126</sup>required to or will, in its discretion,] take in relation to those matters.
- (2) Subject to paragraph 20 and to any recommendations or directions under the following provisions of this paragraph, it shall be the duty of the appropriate authority—
- (a) to take the action which has been or is required to be notified or, as the case may be, which is or is required to be set out in the memorandum; 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.
- (3) Where this paragraph applies by virtue of sub-paragraph (1)(b), the Commission may make a recommendation to the appropriate authority in respect of any person serving with the police—
- [<sup>F127</sup>(za) that the person has a case to answer in respect of misconduct or gross misconduct or has no case to answer in relation to his conduct to which the investigation related;]
  - [<sup>F128</sup>(zb) that the person's performance is, or is not, unsatisfactory;]

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- [<sup>F129</sup>(a) that disciplinary proceedings of the form specified in the recommendation are brought against that person in respect of his conduct[<sup>F130</sup>, efficiency or effectiveness ] to which the investigation related;]
- (b) that any disciplinary proceedings brought against that person are modified so as to [<sup>F131</sup>deal with such aspects of that conduct][<sup>F132</sup>, efficiency or effectiveness] as may be so specified;

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.

- (4) If, after the Commission has made a recommendation under this paragraph, the appropriate authority does not take steps to secure that full effect is given to the recommendation—
- (a) the Commission may direct the appropriate authority to take steps for that purpose; and
- (b) it shall be the duty of the appropriate authority to comply with the direction.
- (5) A direction under sub-paragraph (4) may, to such extent as the Commission thinks fit, set out the steps to be taken by the appropriate authority in order to give effect to the recommendation.
- (6) Where the Commission gives the appropriate authority a direction under this paragraph, it shall supply the appropriate authority with a statement of its reasons for doing so.
- (7) Where disciplinary proceedings have been brought in accordance with a recommendation or direction under this paragraph, it shall be the duty of the authority to ensure that they are proceeded with to a proper conclusion.
- (8) The Commission may at any time withdraw a direction given under this paragraph; and sub-paragraph (7) shall not impose any obligation in relation to any time after the withdrawal of the direction.
- (9) The appropriate authority shall keep the Commission informed—
- (a) in a case in which this paragraph applies by virtue of sub-paragraph (1)(b), of whatever action it takes in pursuance of its duty under sub-paragraph (2); and
- (b) in every case of a recommendation or direction under this paragraph, of whatever action it takes in response to that recommendation or direction.

#### Textual Amendments

- F125** Words in Sch. 3 para. 27(1)(a) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 127, 153, Sch. 23 para. 18\(2\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F126** Words in Sch. 3 para. 27(1)(b) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 127, 153, Sch. 23 para. 18\(2\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F127** Sch. 3 para. 27(3)(za) inserted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 127, 153, Sch. 23 para. 18\(3\)\(a\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F128** Sch. 3 para. 27(3)(zb) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 14 para. 14\(5\)\(a\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F129** Sch. 3 para. 27(3)(a) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 127, 153, Sch. 23 para. 18\(3\)\(b\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F130** Words in Sch. 3 para. 27(3)(a) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 14 para. 14\(5\)\(b\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)



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**F131** Words in Sch. 3 para. 27(3)(b) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, **Sch. 23 para. 18(3)(c)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)

**F132** Words in Sch. 3 para. 27(3)(b) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), **Sch. 14 para. 14(5)(c)**; S.I. 2012/2892, art. 2(g) (with art. 6)

**Modifications etc. (not altering text)**

**C16** Sch. 3 para. 27 applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), **reg. 3(4)(6)**, Sch. 3

**Commencement Information**

**I13** Sch. 3 para. 27 wholly in force at 1.4.2004; Sch. 3 para. 27 not in force at Royal Assent see s. 108(2); Sch. 3 para. 27 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), **art. 4(e)**; Sch. 3 para. 27 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), **art. 2(d)**

*Information for complainant about disciplinary recommendations*

28 (1) Where—

- (a) the Commission makes recommendations under paragraph 27 in the case of an investigation of a complaint, and
- (b) the appropriate authority notify the Commission that the recommendations have been accepted,

the Commission shall notify the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21 of that fact and of the steps that have been, or are to be taken, by the appropriate authority to give effect to it.

(2) Where in the case of an investigation of a complaint the appropriate authority—

- (a) notify the Commission that it does not (either in whole or in part) accept recommendations made by the Commission under paragraph 27, or
- (b) fails to take steps to give full effect to any such recommendations,

it shall be the duty of the Commission to determine what if any further steps to take under that paragraph.

(3) It shall be the duty of the Commission to notify the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21—

- (a) of any determination under sub-paragraph (2) not to take further steps under paragraph 27; and
- (b) where they determine under that sub-paragraph to take further steps under that paragraph, of the outcome of the taking of those steps.

**Modifications etc. (not altering text)**

**C17** Sch. 3 para. 28 applied (with modifications) (1.4.2006) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), **reg. 3(5)(6)**, Sch. 3

**Commencement Information**

**I14** Sch. 3 para. 28 wholly in force at 1.4.2004; Sch. 3 para. 28 not in force at Royal Assent see s. 108(2); Sch. 3 para. 28 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), **art. 4(e)**; Sch. 3 para. 28 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), **art. 2(d)**

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### Minor definitions

[<sup>F133</sup>29 In this Part of this Schedule—

[<sup>F134</sup>“direction and control matter” means a matter that relates to the direction and control of a police force by—

- (a) the chief officer of police of that force, or
- (b) a person for the time being carrying out the functions of the chief officer of police of that force;]

“gross misconduct” means a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal;

“misconduct” means a breach of the Standards of Professional Behaviour;

“the person investigating”, in relation to a complaint, recordable conduct matter or DSI matter, means the person appointed or designated to investigate that complaint or matter;

“prescribed” means prescribed by regulations made by the Secretary of State;

“the Standards of Professional Behaviour” means the standards so described in, and established by, regulations made by the Secretary of State.]

#### Textual Amendments

**F133** Sch. 3 para. 29 inserted (3.11.2008 for certain purposes and 1.12.2008 otherwise) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, **Sch. 23 para. 19** (with s. 14(1)); S.I. 2008/2712, art. 2, **Sch. para. 17(b)** (subject to arts. 3, 4); S.I. 2008/2993, **art. 2(1)(i)(ii)** (subject to art. 3)

**F134** Words in Sch. 3 para. 29 inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), **Sch. 14 para. 21**; S.I. 2012/2892, art. 2(g) (with art. 6)

### [<sup>F135</sup>Appeals: the relevant appeal body

#### Textual Amendments

**F135** Sch. 3 paras. 30-32 and cross-heading inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), **Sch. 14 para. 22**; S.I. 2012/2892, art. 2(g) (with art. 6)

- 30 (1) The relevant appeal body in relation to an appeal is—
- (a) the Commission, in a case where the relevant complaint falls within a description of complaints specified in regulations made by the Secretary of State for the purposes of this paragraph; or
  - (b) the chief officer of police who is the appropriate authority in relation to the relevant complaint, in any other case.
- (2) In this paragraph and paragraphs 31 and 32—
- “appeal” means an appeal under paragraph 7(8), 8A, 21(7) or 25(2);
  - “relevant complaint”, in relation to an appeal, means the complaint to which the appeal relates.
- 31 (1) This paragraph applies in a case where—
- (a) an appeal is made to the Commission, and
  - (b) the appropriate authority is the relevant appeal body in relation to the appeal.

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- (2) The Commission must—
    - (a) forward the appeal to the appropriate authority; and
    - (b) notify the person who made the appeal—
      - (i) that the appropriate authority is the relevant appeal body; and
      - (ii) the appeal has been forwarded.
  - (3) The appeal is to be taken to have been—
    - (a) made to the appropriate authority, and
    - (b) so made at the time when it is forwarded to the appropriate authority.
- 32 (1) This paragraph applies in a case where—
  - (a) an appeal is made to the appropriate authority; and
  - (b) the Commission is the relevant appeal body in relation to the appeal.
- (2) The appropriate authority must—
    - (a) forward the appeal to the Commission; and
    - (b) notify the person who made the appeal—
      - (i) that the Commission is the relevant appeal body; and
      - (ii) the appeal has been forwarded.
  - (3) The appeal is to be taken to have been—
    - (a) made to the Commission; and
    - (b) so made at the time when it is forwarded to the Commission.]



**Status:**

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**Changes to legislation:**

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