

*Status: Point in time view as at 19/12/2012.*

*Changes to legislation: Police Reform Act 2002, Cross Heading: Action by the Commission in response to an investigation report under paragraph 22 is up to date with all changes known to be in force on or before 28 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

*Action by the Commission in response to an investigation report [F1 under paragraph 22]*

#### Textual Amendments

**F1** 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\(1\)\(w\)](#)

- 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 [F2(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 [F3(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;
  - [F4(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 [F5 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 [F6 and the persons mentioned in sub-paragraph (5)] of its determination under paragraph (b) and of any action taken by it under paragraph (c).
- [F7(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.]

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- (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) [<sup>F8</sup>The] 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.
- [<sup>F9</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>F10</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>F11</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;

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- (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 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>F12</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

- F2** 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\(1\)\(w\)](#)
- F3** 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\(1\)\(w\)](#)
- F4** 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)
- F5** 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)
- F6** 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)
- F7** 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)
- F8** 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)
- F9** 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)
- F10** 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)
- F11** 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)
- F12** 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)

- C1** 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

- I1** 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\(d\)](#)

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