

SCHEDULES

SCHEDULE 5

COMPLAINTS, CONDUCT MATTERS AND DSI MATTERS: PROCEDURE

PART 3

INVESTIGATIONS AND SUBSEQUENT PROCEEDINGS

- 26 (1) Paragraph 23 (action by the Commission in response to an investigation report under paragraph 22) is amended as follows.
- (2) After sub-paragraph (5) insert—
- “(5A) On receipt of the report, the Commission shall also—
- (a) seek the views of the appropriate authority on—
 - (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,
 - (ii) whether or not any such person’s performance is unsatisfactory, and
 - (iii) the other matters (if any) dealt with in the report (but not on whether the conditions in sub-paragraphs (2A) and (2B) are satisfied in respect of the report),
 - (b) having considered the views (if any) of the appropriate authority, make a determination as to—
 - (i) the matters described in paragraph (a)(i) and (ii), and
 - (ii) whether or not disciplinary proceedings should be brought against any person to whose conduct the investigation related and, if so, what form the disciplinary proceedings should take,
 - (c) having considered the views (if any) of the appropriate authority and if the Commission considers it appropriate to do so, make a determination as to any matter dealt with in the report, being a determination other than one that it is required to make under sub-paragraph (2)(b) or paragraph (b) of this sub-paragraph,
 - (d) notify the appropriate authority of its determination under paragraph (b) and any determination under paragraph (c),
 - (e) where the Commission determines that disciplinary proceedings of a form specified in the determination should be brought against a person, direct the appropriate authority to bring those proceedings, and
 - (f) direct the appropriate authority to determine what action (if any) the appropriate authority will in its discretion take, not being action involving the bringing of disciplinary proceedings, in

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respect of the matters dealt with in the report and having regard to the Commission's determination under paragraph (b) and any determination under paragraph (c).

- (5B) The appropriate authority must comply with a direction given under sub-paragraph (5A)(e) and must secure that the proceedings, once brought, are proceeded with to a proper conclusion.
- (5C) The Commission may at any time withdraw a direction given under sub-paragraph (5A)(e); and sub-paragraph (5B) shall not impose any obligation in relation to any time after the withdrawal of the direction.
- (5D) The appropriate authority must keep the Commission informed of the action it takes in response to a direction given under sub-paragraph (5A)(e).
- (5E) The appropriate authority must comply with the direction given under sub-paragraph (5A)(f) and must notify the Commission of the determination it makes.
- (5F) On receipt of the report, where it is a report of an investigation of a complaint, the Commission may also make a recommendation under paragraph 28ZA."

(3) Omit sub-paragraphs (6) to (8).