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## SCHEDULES

### SCHEDULE 5

#### COMPLAINTS, CONDUCT MATTERS AND DSI MATTERS: PROCEDURE

#### PART 4

#### REVIEWS

- 34 (1) Paragraph 25 (appeals with respect to an investigation) is amended as follows.
- (2) After sub-paragraph (1) insert—
- “(1A) But this paragraph does not apply where the person investigating submitted a report on the investigation under provision made by virtue of paragraph 20A(4)(b) and did not (as a result of provision made by virtue of paragraph 20A(4)(a)) submit a further report under paragraph 22(2).
- (1B) Where this paragraph applies, the complainant has the right to apply to the relevant review body for a review of the outcome of the complaint.
- (1C) The relevant review body must notify the following of an application for a review under sub-paragraph (1B)—
- (a) the appropriate authority,
  - (b) every person entitled to be kept properly informed in relation to the complaint under section 21, and
  - (c) the person complained against (if any).”
- (3) Omit sub-paragraphs (2) to (3).
- (4) For sub-paragraph (4) substitute—
- “(4) Where the relevant review body so requires on the making of an application for a review under sub-paragraph (1B), the appropriate authority must provide the relevant review body with—
- (a) a copy of the report of the investigation, and
  - (b) such information concerning the authority's determinations under paragraph 24 as is described in a notification given by the relevant review body to the authority.”
- (5) After sub-paragraph (4) insert—
- “(4A) On a review applied for under sub-paragraph (1B), the relevant review body must determine whether the outcome of the complaint is a reasonable and proportionate outcome.
- (4B) In making a determination under sub-paragraph (4A), the relevant review body may review the findings of the investigation.

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- (4C) Where the Commission is the relevant review body and the Commission finds that the outcome is not a reasonable and proportionate outcome, the Commission may—
- (a) make its own findings (in place of, or in addition to, findings of the investigation);
  - (b) direct that the complaint be re-investigated;
  - (c) make a recommendation to the appropriate authority in respect of any person serving with the police—
    - (i) that the person has a case to answer in respect of misconduct or gross misconduct or has no case to answer in relation to the person's conduct to which the investigation related;
    - (ii) that the person's performance is, or is not, unsatisfactory;
    - (iii) that disciplinary proceedings of the form specified in the recommendation are brought against the person in respect of the person's conduct, efficiency or effectiveness to which the investigation related;
    - (iv) that any disciplinary proceedings brought against that person are modified so as to deal with such aspects of that conduct, efficiency or effectiveness as may be so specified;
  - (d) make a recommendation under paragraph 28ZA.
- (4D) Where the Commission makes a recommendation under sub-paragraph (4C)
- (c)—
    - (a) the appropriate authority must notify the Commission whether it accepts the recommendation and (if it does) set out in the notification the steps that it is proposing to take to give effect to it, and
    - (b) sub-paragraphs (4) to (8) and (9)(b) of paragraph 27 apply in relation to the recommendation as if it had been made under that paragraph.
- (4E) Where a local policing body is the relevant review body and the local policing body finds that the outcome is not a reasonable and proportionate outcome, the local policing body may—
- (a) make a recommendation to the appropriate authority that the complaint be re-investigated by the authority on its own behalf;
  - (b) where the complaint has not previously been referred to the Commission under paragraph 4, make a recommendation to the appropriate authority that it refer the complaint to the Commission under sub-paragraph (2) of that paragraph;
  - (c) make a recommendation to the appropriate authority in respect of any person serving with the police—
    - (i) that the person has a case to answer in respect of misconduct or gross misconduct or has no case to answer in relation to the person's conduct to which the investigation related;
    - (ii) that the person's performance is, or is not, unsatisfactory;
    - (iii) that disciplinary proceedings of the form specified in the recommendation are brought against the person in respect of the person's conduct, efficiency or effectiveness to which the investigation related;

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- (iv) that any disciplinary proceedings brought against that person are modified so as to deal with such aspects of that conduct, efficiency or effectiveness as may be so specified;
  - (d) make a recommendation under paragraph 28ZA.
- (4F) Sub-paragraph (4G) applies where, on a review applied for under sub-paragraph (1B), the relevant review body determines that the report of the investigation indicates that a criminal offence may have been committed by a person (if any) to whose conduct the investigation related and that—
  - (a) the circumstances are such that, in the opinion of the relevant review body, 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 category of matters prescribed for the purposes of paragraph 24(2B)(b).
- (4G) Where this sub-paragraph applies—
  - (a) if the Commission is the relevant review body, the Commission must notify the Director of Public Prosecutions of the determination under sub-paragraph (4F) and send the Director a copy of the report;
  - (b) if a local policing body is the relevant review body, the local policing body must make a recommendation to the appropriate authority that the appropriate authority—
    - (i) notify the Director of Public Prosecutions of the determination under sub-paragraph (4F), and
    - (ii) send the Director a copy of the report.
- (4H) The Secretary of State may by regulations make further provision about recommendations under sub-paragraph (4E)(a), (b) or (c) or (4G)(b).
- (4I) The regulations may (amongst other things) authorise the local policing body making the recommendation to require a response to the recommendation.
- (4J) Where this paragraph applies because the person investigating submitted a report on the investigation under provision made by virtue of paragraph 20A(4)(b) (“the first report”) and a further report under paragraph 22(2), the references in sub-paragraphs (4B) and (4C)(a) to the findings of the investigation do not include a reference to findings on the first report.”
- (6) Omit sub-paragraphs (5) to (9A).
- (7) In sub-paragraph (10)—
  - (a) in the words before paragraph (a)—
    - (i) for “appeal” substitute “ review ”;
    - (ii) for “any determination” substitute “ the outcome of a review ”;
    - (iii) after “paragraph” insert “ and of its reasons for the determination made under sub-paragraph (4A) ”;
  - (b) in paragraph (a), omit “(unless it is the relevant appeal body)”;
  - (c) in paragraph (d)—
    - (i) for “appeal” substitute “ review ”;
    - (ii) omit “proposed review or”.
- (8) Omit sub-paragraph (11).

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(9) In sub-paragraph (13)—

- (a) in paragraph (a), for “appeals under this paragraph are to be brought” substitute “ applications under sub-paragraph (1B) are to be made ”;
- (b) in paragraph (b), for “appeal must be brought” substitute “ application must be made ”;
- (c) for paragraph (c) substitute—
  - “(c) for the procedure to be followed by the relevant review body when carrying out a review applied for under sub-paragraph (1B).”

(10) After sub-paragraph (13) insert—

- “(14) In this paragraph references in relation to an investigation to the outcome of the complaint do not include the outcome of any criminal or disciplinary proceedings brought in relation to any matter which was the subject of the investigation.”

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**Commencement Information**

- I1** [Sch. 5 para. 34](#) in force for certain purposes at Royal Assent, see [s. 183](#)
- I2** [Sch. 5 para. 34](#) in force at 1.2.2020 in so far as not already in force by [S.I. 2020/5](#), [reg. 2\(n\)](#) (with [art. 3\(1\)\(2\)\(4\)](#))

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2017/1139, reg. 2 by [S.I. 2017/1162 reg. 2](#)