

**Changes to legislation:** Policing and Crime Act 2017, SCHEDULE 6 is up to date with all changes known to be in force on or before 07 May 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) View outstanding changes

## SCHEDULES

### SCHEDULE 6

Section 28

#### SCHEDULE TO BE INSERTED AS SCHEDULE 3A TO THE POLICE REFORM ACT 2002

##### Commencement Information

**II** Sch. 6 in force for certain purposes at Royal Assent, see s. 183

#### “SCHEDULE 3A

Section 29D(5)

##### WHISTLE-BLOWING INVESTIGATIONS: PROCEDURE

###### *Designation of persons to take part in investigation*

- 1 (1) Paragraph 19(1), (2) and (4) to (8) of Schedule 3 (investigations under that Schedule by the Commission itself), and any order made under paragraph 19(4) of that Schedule, apply where the Commission decides to carry out an investigation under section 29D(1) as they apply where the Commission has determined to investigate, or is required to investigate, a complaint, recordable conduct matter or DSI matter under that Schedule.
- (2) In the case of an investigation under section 29D(1) relating to any conduct of the Commissioner of Police of the Metropolis or the Deputy Commissioner of Police of the Metropolis, the person designated under paragraph 19(2) of Schedule 3 (as applied by sub-paragraph (1)) must be the person nominated by the Secretary of State for that purpose.

###### *Protection of anonymity*

- 2 (1) The person in charge of an investigation under section 29D(1), and any other person designated for the purposes of the investigation by virtue of paragraph 1, may not disclose the identity of the whistle-blower or information that might (whether alone or with other information) tend to reveal that identity.
- (2) Sub-paragraph (1) does not apply to the extent that—
  - (a) the whistle-blower consents to the disclosure of his or her identity or (as the case may be) to the disclosure of information that might tend to reveal it, or
  - (b) the disclosure is authorised by regulations made by the Secretary of State under section 29J.
- (3) The person in charge of an investigation under section 29D(1) must take all reasonable steps to ensure that, where the identity of the whistle-blower, or information that might tend to reveal that identity, is disclosed for the purposes of the investigation (whether with the consent of the whistle-blower or in accordance with regulations under section 29J), it is not further disclosed without the consent of the person in charge.

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- (4) For the purpose of the duty under sub-paragraph (3), the person in charge may impose such requirements on persons to whom the identity of the whistle-blower, or information that might tend to reveal that identity, is disclosed as are specified in regulations made by the Secretary of State for the purpose of this paragraph.

*Powers to obtain information etc*

- 3 Paragraphs 19ZA to 19ZC of Schedule 3 apply in relation to an investigation under section 29D(1) as they apply in relation to an investigation under paragraph 19 of that Schedule.

*Procedure where conduct matter is revealed during investigation*

- 4 (1) If, during the course of an investigation under section 29D(1), it appears to the person in charge 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,
- the person in charge must make a submission to that effect to the Commission.
- (2) If, after considering the submission, the Commission determines that there is such an indication, it must—
- (a) notify the appropriate authority in relation to the person whose conduct is in question of its determination, and
  - (b) send to it a copy of the submission under sub-paragraph (1).
- (3) Where the appropriate authority in relation to the person whose conduct is in question is notified under sub-paragraph (2), it must record the matter under paragraph 11 of Schedule 3 to this Act as a conduct matter.
- (4) Where a matter is, in accordance with sub-paragraph (3), recorded under paragraph 11 of Schedule 3 as a conduct matter—
- (a) the person in charge of the investigation under section 29D(1) must (subject to any determination made by the Commission under paragraph 15(5B) of Schedule 3) continue the investigation as if appointed or designated to investigate the conduct matter, and
  - (b) the other provisions of Schedule 3 apply in relation to that matter accordingly (subject to regulations under sub-paragraph (5)).
- (5) The Secretary of State may by regulations make provision modifying Schedule 3 in relation to an investigation of a matter that, in accordance with sub-paragraph (3), is recorded under paragraph 11 of that Schedule as a conduct matter but only for the purpose of making provision for the protection of the anonymity of whistle-blowers.

*Procedure where DSI matter is revealed during investigation*

- 5 (1) If, during the course of an investigation under section 29D(1), it appears to the person in charge that the matter may be a DSI matter, the person must make a submission to that effect to the Commission.
- (2) If, after considering the submission, the Commission determines the matter is a DSI matter, it must—

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- (a) notify the appropriate authority in relation to the DSI matter, and
  - (b) send to it a copy of the submission under sub-paragraph (1).
- (3) Where the appropriate authority in relation to the DSI matter is notified under sub-paragraph (2), it must record the matter under paragraph 14A of Schedule 3 to this Act as a DSI matter.
- (4) Where a matter is, in accordance with sub-paragraph (3), recorded under paragraph 14A of Schedule 3 as a DSI matter—
  - (a) the person in charge of the investigation under section 29D(1) must (subject to any determination made by the Commission under paragraph 15(5B) of Schedule 3) continue the investigation as if appointed or designated to investigate the DSI matter, and
  - (b) the other provisions of Schedule 3 apply in relation to that matter accordingly (subject to regulations under sub-paragraph (5)).
- (5) The Secretary of State may by regulations make provision modifying Schedule 3 in relation to an investigation that, in accordance with sub-paragraph (3), is recorded under paragraph 14A of that Schedule as a DSI matter but only for the purpose of making provision for the protection of the anonymity of whistle-blowers.
- (6) In this paragraph, references to the appropriate authority in relation to a DSI matter have the same meaning as in Part 2 (see section 29).

#### *Conclusion of investigation*

- 6 (1) When an investigation under section 29D(1) is concluded, the person in charge of the investigation must submit a report on it to the Commission.
- (2) The Commission—
  - (a) must send a copy of the report to the whistle-blower, and
  - (b) may, with the consent of the whistle-blower, send a copy of the report to the appropriate authority.
- (3) The Secretary of State may by regulations make provision for circumstances in which the duty under sub-paragraph (2)(a) does not apply.
- (4) The power conferred by sub-paragraph (3) may be exercised only to the extent that the Secretary of State considers necessary for any of the permitted non-disclosure purposes.
- (5) The Secretary of State may also by regulations make provision for circumstances in which (despite sub-paragraph (2)(b)) a copy of the report may be sent to the appropriate authority without the consent of the whistle-blower.
- (6) The power conferred by sub-paragraph (5) may be exercised only to the extent that the Secretary of State considers necessary for any of the permitted disclosure purposes.
- (7) Where the Commission would contravene section 21A by sending a copy of a report in its entirety to the whistle-blower or to the appropriate authority, the Commission may comply with its duty under sub-paragraph (2)(a) or (as the case may be) may exercise its power under sub-paragraph (2)(b) (or under regulations under sub-paragraph (5)) by sending instead a copy of the report after having removed or obscured the information which it is prohibited from disclosing by section 21A.
- (8) In this paragraph—

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- (a) “the permitted non-disclosure purposes” has the same meaning as in section 29I;
- (b) “the permitted disclosure purposes” has the same meaning as in section 29J.

*Power of Commission to make recommendations*

- 7 (1) On receipt of a report under paragraph 6, the Commission may make a recommendation in relation to any matter dealt with in it.
- (2) The Secretary of State may by regulations make further provision about recommendations under this paragraph.
- (3) The regulations may (amongst other things)—
- (a) describe the kinds of recommendations that the Commission may make under this paragraph;
  - (b) specify the persons to whom the recommendations may be made;
  - (c) authorise the Commission to require a response to a recommendation made under this paragraph.”

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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](#)