



Policing and Crime Act 2017

2017 CHAPTER 3

PART 2

POLICE COMPLAINTS, DISCIPLINE AND INSPECTION

CHAPTER 1

POLICE COMPLAINTS

19 Sensitive information received by IPCC: restriction on disclosure

- (1) Part 2 of the Police Reform Act 2002 (complaints and misconduct) is amended as follows.
- (2) After section 21 insert—

“21A Restriction on disclosure of sensitive information

- (1) Where the Commission receives information within subsection (3), the Commission must not disclose (whether under section 11, 20 or 21 or otherwise) the information, or the fact that it has been received, unless the relevant authority consents to the disclosure.
- (2) Where a person appointed under paragraph 18 of Schedule 3 to investigate a complaint or matter (a “paragraph 18 investigator”) receives information within subsection (3), the paragraph 18 investigator must not disclose the information, or the fact that it has been received, to any person other than the Commission unless the relevant authority consents to the disclosure.
- (3) The information is—
 - (a) intelligence service information;
 - (b) protected information relating to a relevant warrant;

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- (c) information obtained from a government department which, at the time it is provided to the Commission or the paragraph 18 investigator, is identified by the department as information the disclosure of which may, in the opinion of the relevant authority—
- (i) cause damage to national security, international relations or the economic interests of the United Kingdom or any part of the United Kingdom, or
 - (ii) jeopardise the safety of any person.
- (4) Where the Commission or a paragraph 18 investigator discloses to another person information within subsection (3), or the fact that the Commission or the paragraph 18 investigator has received it, the other person must not disclose that information or that fact unless the relevant authority consents to the disclosure.
- (5) In this section—
- “government department” means a department of Her Majesty’s Government but does not include—
- (a) the Security Service,
 - (b) the Secret Intelligence Service, or
 - (c) the Government Communications Headquarters (“GCHQ”);
- “intelligence service information” means information that was obtained (directly or indirectly) from or that relates to—
- (a) the Security Service,
 - (b) the Secret Intelligence Service,
 - (c) GCHQ, or
 - (d) any part of Her Majesty’s forces, or of the Ministry of Defence, which engages in intelligence activities;
- “Minister of the Crown” includes the Treasury;
- “paragraph 18 investigator” has the meaning given by subsection (2);
- “protected information”, in relation to a relevant warrant, means information relating to any of the matters mentioned in section 57(4) of the Investigatory Powers Act 2016 in relation to the warrant;
- “relevant authority” means—
- (a) in the case of intelligence service information obtained (directly or indirectly) from or relating to the Security Service, the Director-General of the Security Service;
 - (b) in the case of intelligence service information obtained (directly or indirectly) from or relating to the Secret Intelligence Service, the Chief of the Secret Intelligence Service;
 - (c) in the case of intelligence service information obtained (directly or indirectly) from or relating to GCHQ, the Director of GCHQ;
 - (d) in the case of intelligence service information obtained (directly or indirectly) from or relating to Her Majesty’s forces or the Ministry of Defence, the Secretary of State;
 - (e) in the case of protected information relating to a relevant warrant, the person to whom the relevant warrant is or was addressed;
 - (f) in the case of information within subsection (3)(c)—

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- (i) the Secretary of State, or
- (ii) the Minister of the Crown in charge of the government department from which the information was obtained (if that Minister is not a Secretary of State);

“relevant warrant” means—

- (a) a warrant under Chapter 1 of Part 2 of the Investigatory Powers Act 2016, or
- (b) a warrant under Chapter 1 of Part 6 of that Act.

21B Provision of sensitive information to the Commission and certain investigators

- (1) A person who provides information that is intelligence service information or protected information relating to a relevant warrant to the Commission or a paragraph 18 investigator (whether under a provision of this Part or otherwise) must—
 - (a) make the Commission or the paragraph 18 investigator aware that the information is intelligence service information or (as the case may be) protected information relating to a relevant warrant, and
 - (b) provide the Commission or the paragraph 18 investigator with such additional information as will enable the Commission or the paragraph 18 investigator to identify the relevant authority in relation to the information.
- (2) In this section, “intelligence service information”, “protected information relating to a relevant warrant”, “paragraph 18 investigator” and “relevant authority” have the same meaning as in section 21A.”
- (3) In Schedule 3 (handling of complaints and conduct matters etc), in Part 3 (investigations and subsequent proceedings)—
 - (a) omit paragraph 19ZD (sensitive information: restriction on further disclosure of information received under an information notice);
 - (b) in paragraph 22 (final reports on investigations: complaints, conduct matters and certain DSI matters)—
 - (i) after sub-paragraph (6) insert—

“(6A) Where a person would contravene section 21A by submitting, or (as the case may be) sending a copy of, a report in its entirety to the appropriate authority under sub-paragraph (2) or (3)(b), the person must instead submit, or send a copy of, the report after having removed or obscured the information which by virtue of section 21A the person must not disclose.”;
 - (ii) in sub-paragraph (8), at the end insert “except so far as the person is prevented from doing so by section 21A”;
 - (c) in paragraph 23 (action by the Commission in response to an investigation report under paragraph 22)—
 - (i) in sub-paragraph (1A) (as inserted by section 18), after “sub-paragraph (2)(a)” insert “(read with sub-paragraph (2ZA))”;
 - (ii) after sub-paragraph (2) insert—

Status: This is the original version (as it was originally enacted).

- “(2ZA) Where the Commission would contravene section 21A by sending a copy of a report in its entirety to the appropriate authority under sub-paragraph (2)(a) or to the Director of Public Prosecutions under sub-paragraph (2)(c), the Commission must instead send a copy of the report after having removed or obscured the information which by virtue of section 21A the Commission must not disclose.”;
- (d) in paragraph 24A (final reports on investigations: other DSI matters), after sub-paragraph (3) insert—
- “(3A) Where a person would contravene section 21A by sending a copy of a report in its entirety to the appropriate authority under sub-paragraph (2)(b), the person must instead send a copy of the report after having removed or obscured the information which by virtue of section 21A the person must not disclose.”;
- (e) in paragraph 24B (action by the Commission in response to an investigation report under paragraph 24A), after sub-paragraph (1) insert—
- “(1A) Sub-paragraph (3A) of paragraph 24A applies for the purposes of sub-paragraph (1) of this paragraph as it applies for the purposes of sub-paragraph (2)(b) of that paragraph.”