STATUTORY INSTRUMENTS

2020 No. 2

POLICE

The Police (Complaints and Misconduct) Regulations 2020

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The Secretary of State makes the following Regulations in exercise of the powers conferred by the provisions of the Police Reform Act 2002(**a**) specified in Schedule 1 to these Regulations(**b**) and section 180(1) and (3) of the Policing and Crime Act 2017(**c**).

In accordance with section 24 of the Police Reform Act 2002(**d**), the Secretary of State has consulted with the Office, the Director General(**e**), such persons as appear to the Secretary of State to represent the views of police and crime commissioners, the Mayor's Office for Policing and Crime, the Common Council, the National Police Chiefs' Council(**f**) and such other persons as the Secretary of State thinks fit.

In accordance with section 63(3)(b) of the Police Act 1996(**g**), the Secretary of State supplied a draft of these Regulations to the Police Advisory Board for England and Wales and has taken into consideration the representations made by that Board before making these Regulations.

PART 1

Preliminary

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the Police (Complaints and Misconduct) Regulations 2020 and come into force on 1st February 2020.

(2) In these Regulations—

(**a**) 2002 c. 30.
(**b**) In addition, paragraph 29 of Schedule 3 to the 2002 Act states that in Part 3 of that Schedule "prescribed" means prescribed by regulations made by the Secretary of State. Paragraph 29 was inserted by paragraphs 1, 3 and 19 of Schedule 23 to the Criminal Justice and Immigration Act 2008 (c. 4).
(**c**) 2017 c. 3.
(**d**) Section 24 was amended by paragraphs 277 and 289 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13) and paragraphs 15 and 32 of Schedule 9, and paragraphs 6 and 7 of Schedule 14, to the Policing and Crime Act 2017.
(**e**) Section 29(1) of the 2002 Act defines "the Office" and "the Director General". The definitions were inserted by paragraphs 15 and 40(1) and (2) of Schedule 9 to the Policing and Crime Act 2017.
(**f**) Section 101(1) of the Police Act 1996 (c. 16) defines "police and crime commissioner", "the Mayor's Office for Policing and Crime", "the Common Council" and "the National Police Chiefs' Council". The definitions were inserted by section 96(1) and (2) of the Police Reform and Social Responsibility Act 2011 and paragraph 1(1) and (3) of Schedule 14 to the Policing and Crime Act 2017.
(**g**) 1996 c. 16. Section 63(3) was substituted by paragraphs 68 and 78 of Schedule 4 to the Serious Organised Crime and Police Act 2005 (c. 15) and amended by section 10(3)(b) of the Policing and Crime Act 2009 (c. 26); there are further amendments to section 63(3) but none is relevant.

"the 2002 Act" means the Police Reform Act 2002;

"the Conduct Regulations" means the Police (Conduct) Regulations 2020(**a**);

"designated police volunteer" means a person designated as a community support volunteer or policing support volunteer under section 38(1A) of the 2002 Act (police powers for civilian staff and volunteers)(**b**);

"disciplinary action" has the same meaning as in the Conduct Regulations;

"disciplinary proceedings"—

(a) in relation to a member of a police force or a special constable, means any proceedings under the Conduct Regulations, other than under Part 6 of those Regulations (reflective practice review process), and

(b) in relation to a person serving with the police who is not a member of a police force or a special constable, means any proceedings or management process during which the conduct (as opposed to the performance) of such a person is considered in order to determine whether a sanction or punitive measure is to be imposed against that person in relation to that conduct,

but this definition does not apply in relation to regulation 47 (definition of "disciplinary proceedings" for the purposes of Part 2 of the 2002 Act in relation to police staff members and designated police volunteers);

"interested person" means a person who has an interest in being kept properly informed about the handling of a complaint, conduct matter or DSI matter in accordance with section 21 of the 2002 Act (duty to provide information for other persons)(**c**);

"performance proceedings"—

(a) in relation to a member of a police force or a special constable, means unsatisfactory performance procedures within the meaning of the Police (Performance) Regulations 2020(**d**), and

(b) in relation to a person serving with the police who is not a member of a police force or a special constable, means any proceedings or management process during which the performance of such a person is considered in order to determine whether it is unsatisfactory and whether, as a result, any action is to be taken in relation to it;

"police staff member" means—

(a) a civilian employee of a police force, or

(b) an employee of the Common Council who is under the direction and control of a chief officer;

"reflective practice review process" means the process set out in Part 6 of the Conduct Regulations;

"relevant document" means a document relating to any complaint or matter under investigation (and includes a document containing suggestions as to lines of inquiry to be pursued or witnesses to be interviewed), but this definition does not apply in relation to regulation 27 (report on investigation);

"a relevant offence" means—

(a) an offence for which the sentence is fixed by law, or

(b) an offence for which a person of 18 years or over (not previously convicted) may be sentenced to imprisonment for a term of seven years or more or might be so sentenced but

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(**a**) S.I. 2020/4.

(**b**) Section 38(1A) was substituted by section 38(1) and (2) of the Policing and Crime Act 2017.

(**c**) Section 21 was amended by paragraphs 1 and 7 of the Serious Organised Crime and Police Act 2005 and paragraphs 1 and 4 of Schedule 4, and paragraphs 15 and 27 of Schedule 9, to the Policing and Crime Act 2017; there are further amendments to section 21 but none is relevant.

(**d**) S.I. 2020/3.

for the restrictions imposed by section 33 of the Magistrates' Courts Act 1980 (maximum penalties on summary conviction in pursuance of section 22)(**a**);

"relevant statement" means an oral or written statement relating to any complaint or matter under investigation;

"Schedule 3" means Schedule 3 to the 2002 Act (handling of complaints and conduct matters etc.);

"section 13A notice" means a notice given by a local policing body that maintains a police force to the chief officer of that force under section 13A(1) of the 2002 Act (local policing bodies: functions in relation to complaints)(**b**);

"section 28A direction" means a direction under section 28A(1) or (4) of the 2002 Act (application of Part 2 to old cases)(**c**);

"senior officer" means a member of a police force holding a rank above that of chief superintendent;

"severity assessment" means, in relation to conduct, an assessment as to—

(a) whether the conduct, if proved, would amount to misconduct that is so serious as to justify disciplinary action or gross misconduct(**d**), and

(b) if the conduct were to become the subject of disciplinary proceedings, the form which those proceedings would be likely to take;

"special conditions", other than in regulations 25(3)(a) and 26(3)(a) (accelerated procedure: certification for the purposes of the Conduct Regulations), means the conditions mentioned in paragraph 20A(2) of Schedule 3 (accelerated procedure in special cases)(**e**);

"Standards of Professional Behaviour" has the same meaning as in the Conduct Regulations;

"working day" means any day other than—

(a) a Saturday or Sunday;

(b) Christmas Day or Good Friday, or

(c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**f**) in England and Wales.

(3) The provisions of these Regulations apply in relation to any re-investigation in pursuance of a determination under—

(a) section 13B of the 2002 Act (power of the Director General to require a re-investigation)(**g**), or

(b) paragraph 26 of Schedule 3 (re-investigations following a review)(**h**),

as they apply in relation to any investigation in pursuance of a determination under paragraph 15 of Schedule 3 (power of the Director General to determine the form of an investigation)(**i**).

(**a**) 1980 c. 43. Section 33 was amended by section 17 of, and Part II of Schedule 4 to, the Criminal Justice Act 1991 (c. 53), section 2 of the Aggravated Vehicle-Taking Act 1992 (c. 11), paragraph 65 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) and paragraphs 25 and 27 of Schedule 32 to the Criminal Justice Act 2003 (c. 44).

(**b**) Section 13A was inserted by section 13 of the Policing and Crime Act 2017.

(**c**) Section 28A was inserted by section 2(1) and (2) of the Police (Complaints and Conduct) Act 2012 (c. 22) and amended by paragraphs 15 and 39 of Schedule 9 to the Policing and Crime Act 2017.

(**d**) Paragraph 29 of Schedule 3 to the 2002 Act defines "misconduct" as a breach of the Standards of Professional Behaviour and "gross misconduct" as a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal.

(**e**) Paragraph 20A(2) was substituted by paragraphs 9 and 23 of Schedule 5 to the Policing and Crime Act 2017.

(**f**) 1971 c. 80.

(**g**) Section 13B was inserted by section 18(1) of the Policing and Crime Act 2017 and amended by paragraphs 15 and 20 of Schedule 9 to that Act.

(**h**) Paragraph 26 was amended by paragraphs 29 and 37 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the Policing and Crime Act 2017.

(**i**) Paragraph 15 was amended by paragraphs 1, 11 and 13 of Schedule 12 to the Serious Organised Crime and Police Act 2005 and paragraphs 9 and 15 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the Policing and Crime Act 2017.

Revocation and transitional and saving provisions

2.—(1) Subject to the following provisions of this regulation, the following are revoked—

(a) the Police (Complaints and Misconduct) Regulations 2012(**a**);

(b) the Police (Complaints and Misconduct) (Old Cases) Regulations 2013(**b**);

(c) the Police (Complaints and Misconduct) (Amendment) Regulations 2014(**c**);

(d) the Police (Complaints and Misconduct) (Amendment) Regulations 2017(**d**), and

(e) the following provisions of the Police (Conduct, Complaints and Misconduct and Appeal Tribunal) (Amendment) Regulations 2017(**e**)—

(i) regulation 1 in so far as it applies to the Police (Complaints and Misconduct) Regulations 2012 (citation, commencement and interpretation);

(ii) regulation 2(2) (transitional provision);

(iii) Part 4 (amendment of the Police (Complaints and Misconduct) Regulations 2012);

(iv) Schedule 2 (modifications to the Police (Complaints and Misconduct) Regulations 2012).

(2) The Regulations and provisions mentioned in paragraph (1) continue to have effect and these Regulations do not apply where—

(a) a complaint was made, or a conduct matter or DSI matter came to the attention of an appropriate authority, before 1st February 2020 ("a pre-commencement complaint", "a pre-commencement conduct matter" or "a pre-commencement DSI matter");

(b) a complaint is made, or a conduct matter or DSI matter comes to the attention of an appropriate authority, on or after 1st February 2020 which—

(i) relates to—

(aa) a matter in respect of which a pre-commencement complaint was made;

(bb) a pre-commencement conduct matter, or

(cc) a pre-commencement DSI matter, and

(ii) at the time the complaint is made, or the conduct matter or DSI matter comes to the attention of an appropriate authority, that pre-commencement complaint, pre-commencement conduct matter or pre-commencement DSI matter is being handled in accordance with Schedule 3.

(3) But these Regulations, except paragraph (2), apply where the Director General—

(a) determines under section 13B of the 2002 Act (power of the Director General to require a re-investigation) that a complaint, recordable conduct matter or DSI matter is to be re-investigated, or

(b) makes a section 28A direction in relation to a matter on or after 1st February 2020,

regardless of when the complaint was made or the matter came to the attention of the appropriate authority.

(4) The Regulations mentioned in paragraph (1) continue to have effect for the purposes of—

(a) the National Crime Agency (Complaints and Misconduct) Regulations 2013(**f**), and

(b) the Independent Police Complaints Commission (Complaints and Misconduct) (Contractors) Regulations 2015(**g**).

(**a**) S.I. 2012/1204, amended by S.I. 2014/2406, 2015/431, 2017/575, 2017/1134 and 2017/1250.
(**b**) S.I. 2013/1778, amended by S.I. 2017/1250.
(**c**) S.I. 2014/2406.
(**d**) S.I. 2017/575.
(**e**) S.I. 2017/1134.
(**f**) S.I. 2013/2325, amended by S.I. 2017/1250.
(**g**) S.I. 2015/431, amended by S.I. 2017/1250 and 2018/682.

PART 2

Handling of complaints, conduct matters and DSI matters

Recording of complaints: copies of complaints etc.

3.—(1) Where a local policing body or chief officer records a complaint under paragraph 2(6A) or 4A(4) of Schedule 3 (duties to record complaints)(**a**), the local policing body or chief officer must provide—

(a) a copy of the record made of the complaint to the complainant, and

(b) subject to the following provisions of this regulation, a copy of the complaint to the person complained against (if any).

(2) A copy of a complaint provided under paragraph (1) may be in a form which keeps anonymous the identity of the complainant or any other person.

(3) A local policing body or chief officer may decide not to provide a copy of a complaint under paragraph (1) if it or the chief officer believes that to do so—

(a) might prejudice any criminal investigation or pending proceedings, or

(b) would otherwise be contrary to the public interest.

(4) Where a local policing body or chief officer decides not to provide a copy of a complaint under paragraph (1), the local policing body or chief officer must keep that decision under regular review.

Reference of complaints to the Director General

4.—(1) The descriptions of complaint specified for the purposes of paragraph 4(1)(b) of Schedule 3 (complaints which must be referred to the Director General)(**b**) are—

(a) any complaint not falling within paragraph 4(1)(a) of Schedule 3 but alleging conduct which constitutes—

(i) a serious assault, as determined in guidance issued by the Director General;

(ii) a serious sexual offence, as determined in guidance issued by the Director General;

(iii) serious corruption, including abuse of position for a sexual purpose or the purpose of pursuing an improper emotional relationship, as determined in guidance issued by the Director General;

(iv) a criminal offence or behaviour which is liable to lead to disciplinary proceedings and which, in either case, was aggravated by discriminatory behaviour on the grounds of a person's race, sex, religion or other status as determined in guidance issued by the Director General;

(v) a relevant offence;

(b) any complaint arising from the same incident as one in which any conduct falling within sub-paragraph (a) or paragraph 4(1)(a) of Schedule 3 is alleged;

(c) any complaint not falling within sub-paragraph (a) or (b) or paragraph 4(1)(a) of Schedule 3—

(i) that relates to the conduct of a chief officer or the Deputy Commissioner of Police of the Metropolis, and

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(**a**) Paragraph 2(6A) was inserted by paragraphs 1 and 2 of Schedule 5 to the Policing and Crime Act 2017; paragraph 4A(4) was inserted by section 17(1) and (3) of that Act.

(**b**) Paragraph 4(1) was amended by paragraphs 1 and 7 of Schedule 4, and paragraphs 15 and 56 of Schedule 9, to the Policing and Crime Act 2017.

(ii) in relation to which the appropriate authority is unable to satisfy itself, from the complaint alone, that the conduct complained of (if it were proved) would not justify the bringing of criminal or disciplinary proceedings.

(2) Where a complaint is required to be referred to the Director General under paragraph 4(1)(a) or (b) of Schedule 3, it must be referred—

(a) without delay and in any event not later than the end of the day following the day on which it becomes clear to the appropriate authority that the complaint is one to which paragraph 4(1)(a) or (b) of Schedule 3 applies, and

(b) in such manner as the Director General determines.

(3) Where a complaint is required to be referred to the Director General under paragraph 4(1)(c) of Schedule 3, it must be referred—

(a) without delay and in any event not later than the end of the day following the day on which the Director General notifies the appropriate authority that the complaint is to be referred, and

(b) in such manner as the Director General determines.

Complaints relating to the conduct of chief officers etc.

5.—(1) The Director General must determine that it is necessary for complaints referred to the Director General—

(a) that relate to the conduct of a chief officer or the Deputy Commissioner of Police of the Metropolis, and

(b) in respect of which there is an indication that that person may have committed a criminal offence or behaved in a way which would justify the bringing of disciplinary proceedings,

to be investigated.

(2) Where the Director General is required by paragraph (1) to determine that it is necessary for a complaint to be investigated, paragraph 15 of Schedule 3 (power of the Director General to determine the form of an investigation) applies in relation to the complaint as if sub-paragraphs (4)(a), (4A) and (5A)(b)(**a**) were omitted.

Handling of complaints by the appropriate authority: exception to the duty to investigate

6. The duty imposed by paragraph 6(2C) of Schedule 3 (duty to make arrangements for complaint to be investigated)(**b**) does not apply where the appropriate authority determines that—

(a) the complaint concerns substantially the same—

(i) conduct or other matter as a complaint made previously ("the previous complaint"), or

(ii) conduct as a conduct matter recorded previously ("the previous conduct matter");

(b) there is no fresh indication in respect of that conduct or other matter that—

(i) a person serving with the police may have committed a criminal offence or behaved in a manner that would justify the bringing of disciplinary proceedings, or

(ii) there may have been an infringement of a person's rights under Article 2 or 3 of the Convention (within the meaning of the Human Rights Act 1998(**c**));

(c) there is no fresh substantive evidence in respect of that conduct or other matter which was not reasonably available at the time the previous complaint was made or the previous conduct matter was recorded, and

(**a**) Sub-paragraphs (4A) and (5A) were inserted by paragraphs 9 and 15 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.
(**b**) Paragraph 6(2C) was inserted by paragraphs 5 and 6 of Schedule 5 to the Policing and Crime Act 2017.
(**c**) 1998 c. 42.

(d) as respects the previous complaint or previous conduct matter—

(i) it has been or is being investigated, or

(ii) in the case of a complaint, it has been or is being otherwise handled in accordance with Schedule 3 or the provisions of Part 2 of the 2002 Act ceased to apply to it in accordance with regulation 38 (withdrawn complaints) or regulations 38 and 39 (withdrawn complaints: no written signed notification).

Recording and reference of conduct matters

7.—(1) The descriptions of conduct specified for the purposes of paragraph 11(2)(c) of Schedule 3 (recording etc. of conduct matters in other cases) are—

(a) a serious assault, as determined in guidance issued by the Director General;

(b) a serious sexual offence, as determined in guidance issued by the Director General;

(c) serious corruption, including abuse of position for a sexual purpose or the purpose of pursuing an improper emotional relationship, as determined in guidance issued by the Director General;

(d) a criminal offence or behaviour which is liable to lead to disciplinary proceedings and which, in either case, was aggravated by discriminatory behaviour on the grounds of a person's race, sex, religion or other status as determined in guidance issued by the Director General;

(e) a relevant offence;

(f) conduct whose gravity or other exceptional circumstances make it appropriate to record the matter in which the conduct is involved;

(g) conduct of a chief officer or the Deputy Commissioner of Police of the Metropolis;

(h) conduct which is alleged to have taken place in the same incident as one in which conduct within sub-paragraphs (a) to (e) is alleged.

(2) The description of matter specified for the purposes of paragraphs 10(4A) and 11(3B) of Schedule 3 (conduct matters not required to be recorded)(**a**) is any matter—

(a) which concerns substantially the same conduct as—

(i) a complaint made previously ("the previous complaint"), or

(ii) a conduct matter recorded previously ("the previous conduct matter");

(b) in respect of which there is no fresh indication that a person serving with the police may have committed a criminal offence or behaved in a way which would justify the bringing of disciplinary proceedings;

(c) in respect of which there is no fresh substantive evidence which was not reasonably available at the time the previous complaint was made or the previous conduct matter was recorded, and

(d) as respects the previous complaint or previous conduct matter, it has been or is being investigated or (in the case of a complaint) otherwise handled in accordance with Schedule 3.

(3) The description of matter specified for the purposes of paragraph 13(1)(b) of Schedule 3 (recordable conduct matters which must be referred to the Director General)(**b**) is any matter which relates to conduct falling within paragraph (1), other than sub-paragraph (f).

(4) Any conduct matter which is required to be referred to the Director General must be referred in such manner as the Director General determines and—

(**a**) Paragraphs 10(4A) and 11(3B) were inserted by paragraphs 1, 11 and 12 of Schedule 14 to the Police Reform and Social Responsibility Act 2011.

(**b**) Paragraph 13(1) was amended by paragraphs 277 and 301 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 and paragraphs 15 and 56 of Schedule 9 to the Policing and Crime Act 2017.

(a) if the matter falls within paragraph 13(1)(a) or (b) of Schedule 3, without delay and in any event not later than the end of the day following the day on which it becomes clear to the appropriate authority that the conduct matter is one to which paragraph 13(1)(a) or (b) of Schedule 3 applies;

(b) if the matter falls within paragraph 13(1)(c) of Schedule 3, without delay and in any event not later than the end of the day following the day on which the Director General notifies the appropriate authority that the conduct matter is to be referred.

Recordable conduct matters relating to the conduct of chief officers etc.

8.—(1) The Director General must determine that it is necessary for recordable conduct matters referred to the Director General that relate to the conduct of a chief officer or the Deputy Commissioner of Police of the Metropolis to be investigated.

(2) Where the Director General is required by paragraph (1) to determine that it is necessary for a recordable conduct matter to be investigated, paragraph 15 of Schedule 3 (power of the Director General to determine the form of an investigation) applies in relation to the matter as if sub-paragraphs (4)(a), (4A) and (5A)(b) were omitted.

Reference of DSI Matters

9. Any DSI matter which is required to be referred to the Director General must be referred in such manner as the Director General determines and—

(a) in a case where the Director General directs that the matter be referred to the Director General, without delay and in any event not later than the end of the day following the day on which the Director General so directs, and

(b) in any other case, without delay and in any event not later than the end of the day following the day on which the matter first comes to the attention of the appropriate authority.

DSI matters relating to the conduct of chief officers etc.

10.—(1) The Director General must determine that it is necessary for DSI matters referred to the Director General in relation to which the relevant officer(**a**) is a chief officer or the Deputy Commissioner of Police of the Metropolis to be investigated.

(2) Where the Director General is required by paragraph (1) to determine that it is necessary for a DSI matter to be investigated, paragraph 15 of Schedule 3 (power of the Director General to determine the form of an investigation) applies in relation to the matter as if sub-paragraphs (4)(a), (4A) and (5A)(b) were omitted.

PART 3

Investigations and subsequent proceedings

Notification of determination of form of investigation etc: exceptions

11.—(1) Subject to paragraph (3), the duties imposed by—

(a) paragraph 15(9) of Schedule 3 (duty to notify interested persons etc. of determination of form of investigation)(**b**);

(**a**) Section 29(1A) of the 2002 Act (which was inserted by paragraphs 1 and 10 of Schedule 12 to the Serious Organised Crime and Police Act 2005 and amended by paragraph 93 of Schedule 11 to the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12)) defines "the relevant officer" in relation to a DSI matter.

(**b**) Paragraph 15(9) was inserted by paragraphs 9 and 15 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(b) section 13B(11) of the 2002 Act (duty to notify interested persons etc. of determination that complaint or matter is to be re-investigated and of form of re-investigation), and

(c) paragraph 26(5A) of Schedule 3 (duty to notify interested persons etc. of determination of form of re-investigation following review)(**a**),

on the Director General do not apply where in the opinion of the Director General the non-disclosure of information is necessary for a purpose mentioned in paragraph (2).

(2) The purposes are—

(a) preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any actual or prospective criminal proceedings;

(b) preventing the disclosure of information in any circumstances in which its non-disclosure—

(i) is in the interests of national security;

(ii) is for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders;

(iii) is required on proportionality grounds, or

(iv) is otherwise necessary in the public interest.

(3) The Director General may only conclude that the non-disclosure of information is necessary under paragraph (1) if satisfied that—

(a) there is a real risk of the disclosure of that information causing an adverse effect, and

(b) that adverse effect would be significant.

(4) The Director General must consider whether the non-disclosure of information is justified under paragraph (1) in circumstances where—

(a) that information is relevant to, or may be used in, any actual or prospective disciplinary proceedings or performance proceedings or appeal against the outcome of such proceedings;

(b) the disclosure of that information may lead to the contamination of the evidence of witnesses during such proceedings or appeal;

(c) the disclosure of that information might prejudice the welfare or safety of any third party;

(d) that information constitutes criminal intelligence.

Appointment of persons to carry out investigations

12. A person may not be appointed to carry out an investigation under paragraph 16 or 18 of Schedule 3 (investigations by the appropriate authority on its own behalf and investigations directed by the Director General)(**b**)—

(a) unless the person has an appropriate level of knowledge, skills and experience to plan and manage the investigation;

(b) if the person works, directly or indirectly, under the management of a person whose conduct is being investigated;

(c) in a case where the conduct of a senior officer is being investigated, if the person is—

(i) the chief officer of the police force concerned;

(ii) a member of that force;

(**a**) Paragraph 26(5A) was substituted by paragraphs 29 and 37 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(**b**) Paragraph 16 was amended by paragraphs 1, 11 and 14 of Schedule 12 to the Serious Organised Crime and Police Act 2005, paragraphs 1, 11 and 12 of Schedule 14 to the Police Reform and Social Responsibility Act 2011, paragraph 8 and 17 of Schedule 6 to the Crime and Courts Act 2013 (c. 22) and paragraphs 9 and 16 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the Policing and Crime Act 2017; paragraph 18 was amended by paragraphs 1, 11 and 16 and of Schedule 12 to the Serious Organised Crime and Police Act 2005 and paragraphs 9 and 19 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the Policing and Crime Act 2017.

(iii) a special constable appointed for the area of that force;

(iv) a police staff member serving in that force, or

(v) a designated police volunteer serving in that force;

(d) if the person's involvement could reasonably give rise to a concern as to whether the person could act impartially.

Timeliness of investigations

13.—(1) Where an investigation under paragraph 16 of Schedule 3 (investigations by the appropriate authority on its own behalf) is not completed within a relevant period, the appropriate authority must, as soon as practicable after the end of that period, provide in writing the information mentioned in paragraph (4) to—

(a) where the appropriate authority is a chief officer, the local policing body for the relevant force, except in a case where it appears to the chief officer that to do so might prejudice the investigation or any other investigation (including a criminal investigation), and

(b) the Director General.

(2) Where an investigation under paragraph 18 or 19 of Schedule 3 (investigations directed by the Director General and investigations by the Director General)(**a**) is not completed within a relevant period, the Director General must, as soon as practicable after the end of that period, provide in writing the information mentioned in paragraph (4) to—

(a) the local policing body for the relevant force, and

(b) unless the chief officer of that force is the person to whose conduct the investigation relates, the chief officer of that force,

except in a case where it appears to the Director General that to do so might prejudice the investigation or any other investigation (including a criminal investigation).

(3) For the purposes of this regulation, each of the following is a "relevant period"—

(a) the period of 12 months starting with the date on which—

(i) the complaint to which the investigation relates was made, or

(ii) the conduct matter or DSI matter to which the investigation relates came to the attention of the appropriate authority;

(b) each subsequent period of six months starting with the day after the end of the previous relevant period.

(4) The information is—

(a) the date on which—

(i) the complaint to which the investigation relates was made, or

(ii) the conduct matter or DSI matter to which the investigation relates came to the attention of the appropriate authority;

(b) the date on which any notice was given under regulation 17(1) (special procedure: notification of severity assessment etc.);

(c) the progress of the investigation;

(d) an estimate of when the report on the investigation will be submitted or completed under paragraph 22 or 24A of Schedule 3 (final reports on investigations)(**b**);

(**a**) Paragraph 19 was amended by paragraphs 1, 11 and 17 of Schedule 12 to the Serious Organised Crime and Police Act 2005 and paragraphs 15 and 56 of Schedule 9 to the Policing and Crime Act 2017; there are further amendments to paragraph 19 but none is relevant.

(**b**) Paragraph 22 was substituted by paragraphs 1, 11 and 21 of Schedule 12 to the Serious Organised Crime and Police Act 2005 and amended by paragraphs 1, 3 and 12 of Schedule 23, and Part 8 of Schedule 28, to the Criminal Justice and Immigration Act 2008 and paragraph 47 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the Policing and Crime Act 2017; there are further amendments to paragraph 22 but none is relevant. Paragraph 24A was inserted by paragraphs 1, 11 and 24 of Schedule 12 to the Serious Organised Crime and Police Act 2005 and amended by paragraphs 1, 3 and 15 of

(e) the reason for the length of time being taken to complete the investigation, and

(f) a summary of planned steps to progress the investigation and bring it to a conclusion.

(5) The appropriate authority or Director General (as the case may be) must send a copy of the information provided in writing under paragraph (1) or (2) to—

(a) except where paragraph (6) applies, the complainant (if any) and any interested person, and

(b) except in a case where it appears to the appropriate authority or Director General (as the case may be) that to do so might prejudice the investigation or any other investigation (including a criminal investigation), the person to whose conduct the investigation relates.

(6) This paragraph applies where the Director General or appropriate authority (as the case may be) is of the opinion that the non-disclosure of the information is necessary for a purpose mentioned in regulation 35(3) (exceptions to duties to keep the complainant and interested person informed).

(7) Paragraphs (4) and (5) of regulation 35 apply in relation to paragraph (6) of this regulation as they apply in relation to paragraph (2) of regulation 34.

Combining and splitting investigations

14.—(1) Where an investigation is being carried out under paragraph 16 of Schedule 3 (investigations by the appropriate authority on its own behalf), the appropriate authority may—

(a) combine that investigation with another such investigation, or

(b) split that investigation into two or more such separate investigations,

if it considers that it is more efficient and effective, or is otherwise in the public interest, to do so.

(2) Where an investigation is being carried out under paragraph 18 or 19 of Schedule 3 (investigations directed by the Director General and investigations by the Director General), the Director General may—

(a) combine that investigation with another investigation, or

(b) split that investigation into two or more separate investigations,

if the Director General considers that it is more efficient and effective, or is otherwise in the public interest, to do so.

(3) In relation to an investigation being carried out under paragraph 18 of Schedule 3, the Director General may only take action under paragraph (2) after consultation with the appropriate authority.

(4) Nothing in this regulation prevents the Director General from determining that—

(a) where an investigation is split into two or more separate investigations, those investigations may take different forms;

(b) two or more separate investigations which take different forms (including an investigation being carried out by the appropriate authority on its own behalf) may be combined into a single investigation.

Change of form of investigation: provision of documentation and evidence

15.—(1) This regulation applies where the Director General determines(**a**) that—

(a) an investigation being carried out by the Director General should instead take the form of an investigation by the appropriate authority on its own behalf or an investigation by that authority under the direction of the Director General, or

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Schedule 23 to the Criminal Justice and Immigration Act 2008 and paragraph 47 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the Policing and Crime Act 2017; there are further amendments to paragraph 24A but none is relevant.

(**a**) See paragraph 15 of Schedule 3 and section 13B of the 2002 Act; see also paragraph 26 of Schedule 3.

(b) an investigation being carried out by the appropriate authority under the direction of the Director General should instead take the form of an investigation by the appropriate authority on its own behalf.

(2) The Director General must send to the appropriate authority any documentation and evidence gathered during the investigation which will assist the appropriate authority to carry out its functions under Part 2 of the 2002 Act.

Special procedure: severity assessment

16.—(1) Where paragraph 19A of Schedule 3 (special procedure where investigation relates to police officer or special constable)(**a**) applies to an investigation, the person investigating must proceed with the investigation in accordance with this regulation and regulations 17 to 22 (special procedure).

(2) In the case of an investigation under paragraph 18 of Schedule 3 (investigations directed by the Director General), the person investigating must, as soon as is reasonably practicable—

(a) form an opinion as to—

(i) whether the conduct of the person concerned(**b**), if proved, would amount to misconduct that is so serious as to justify disciplinary action or gross misconduct(**c**), and

(ii) if that conduct were to become the subject of disciplinary proceedings, the form which those proceedings would be likely to take;

(b) notify the Director General of that opinion, and

(c) refer the case to the Director General for the Director General to make a severity assessment in relation to the conduct of the person concerned.

(3) In the case of an investigation under paragraph 19 of Schedule 3 (investigations by the Director General) other than by the Director General acting personally, the person investigating must, as soon as is reasonably practicable, refer the case to the Director General for the Director General to make a severity assessment in relation to the conduct of the person concerned.

(4) In any other case, the person investigating must, as soon as is reasonably practicable, make a severity assessment in relation to the conduct of the person concerned.

(5) A severity assessment may only be made after consultation with the appropriate authority.

Special procedure: notification of severity assessment etc.

17.—(1) Except where paragraph (4) applies, on the completion of a severity assessment, the person investigating must give the person concerned a notification stating—

(a) the conduct that is the subject matter of the allegation and how that conduct is alleged to fall below the Standards of Professional Behaviour;

(b) that there is to be an investigation into the matter and the identity of the person investigating;

(c) the result of the severity assessment;

(d) that if the person concerned is dismissed at disciplinary proceedings, information including the person's full name and a description of the conduct which led to dismissal will be added to the list referred to in section 88B(2) of the Police Act 1996 (police barred list)(**d**) and may be subject to publication for a period of up to five years;

(**a**) Paragraph 19A was substituted by paragraphs 9 and 21 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(**b**) Paragraph 19A(7) of Schedule 3 defines "the person concerned".

(**c**) Paragraph 29 of Schedule 3 defines "misconduct" and "gross misconduct".

(**d**) Section 88B(2) was inserted by Schedule 8 to the Policing and Crime Act 2017.

(e) that the person concerned has the right to seek advice from the person's staff association or any other body;

(f) the effect of regulation 18 (special procedure: police friend);

(g) the effect of regulation 20 (special procedure: representations to the person investigating) and regulation 8 of the Conduct Regulations (legal and other representation), and

(h) that whilst the person concerned does not have to say anything it may harm the person's case if the person does not mention when interviewed or when providing any information under regulation 20 or regulation 31 of the Conduct Regulations (procedure on receipt of notice) something later relied on in any disciplinary proceedings or appeal against the outcome of such proceedings.

(2) Where a notice is given under paragraph (1), the person investigating must—

(a) except where paragraph (4) applies, provide a copy of the terms of reference of the investigation to the person concerned, or

(b) where paragraph (4) applies, give the person concerned a notice stating that the terms of reference of the investigation are not being provided and explaining why,

where practicable, at the same time as notice is given under paragraph (1), or otherwise within a period of five working days starting with the first working day after the day on which such notice is given.

(3) Except where paragraph (4) applies, where a copy of the terms of reference of the investigation has been provided under paragraph (2) and those terms are revised, the person investigating must provide a copy of the revised terms to the person concerned as soon as practicable.

(4) This paragraph applies for so long as—

(a) in the case of an investigation under paragraph 18 or 19 of Schedule 3 (investigations directed by the Director General and investigations by the Director General), the Director General, or

(b) in the case of an investigation under paragraph 16 of Schedule 3 (investigations by the appropriate authority on its own behalf), the person investigating the complaint or matter,

considers that giving the notification or providing a copy of the terms, or revised terms, of reference of the investigation might prejudice the investigation or any other investigation (including a criminal investigation).

(5) A copy of the terms, or revised terms, of reference of the investigation provided under paragraph (2) or (3) may be in a form which keeps anonymous the identity of the complainant (if any) or any other person.

(6) On the completion of a severity assessment, the person investigating must notify the appropriate authority of the result of the assessment.

(7) A notice under paragraph (1) and a copy of the terms, or revised terms, of reference of the investigation under paragraph (2) or (3) must be—

(a) given to the person concerned in person;

(b) left with a person at, or sent by recorded delivery to, the last known address of the person concerned;

(c) given to the person concerned in person by that person's police friend, where the police friend has agreed with the appropriate authority to deliver the notice, or

(d) given to the person concerned in any other manner agreed between the person investigating and the person concerned.

Special procedure: police friend

18.—(1) This regulation applies where the person investigating a complaint or matter has given the person concerned a notification under regulation 17 (special procedure: notification of severity assessment etc.).

(2) The person concerned may choose—

(a) a member of a police force;

(b) a special constable;

(c) a police staff member, or

(d) where the person concerned is a member of a police force, a person nominated by the person's staff association,

who is not otherwise involved in the matter to act as the person's police friend.

(3) A police friend may—

(a) advise the person concerned throughout proceedings under these Regulations;

(b) provide any relevant statement or relevant document to the person investigating(**a**);

(c) accompany the person concerned to any interview of that person conducted by the person investigating(**b**), and

(d) make representations to the Director General concerning any aspect of the proceedings under these Regulations.

(4) Where a police friend is a member of a police force, a special constable or a police staff member, the chief officer of the force of which the police friend is a member must permit the police friend to use a reasonable amount of duty time for the purposes mentioned in paragraph (3).

(5) The reference in paragraph (4) to the force of which the police friend is a member includes a reference to the force maintained for the police area for which a special constable is appointed and the force in which a police staff member is serving.

Special procedure: revision of severity assessment

19.—(1) Where in the case of an investigation under—

(a) paragraph 18 of Schedule 3 (investigations directed by the Director General), or

(b) paragraph 19 of Schedule 3 (investigations by the Director General) other than by the Director General acting personally,

the Director General has made a severity assessment and indicates that it is appropriate to revise the assessment, the person investigating must refer the case to the Director General for the Director General to revise the assessment.

(2) Where in the case of an investigation under—

(a) paragraph 18 of Schedule 3, or

(b) paragraph 19 of Schedule 3 other than by the Director General acting personally,

the Director General has made a severity assessment and the person investigating forms the opinion that it is appropriate to revise that assessment, the person investigating must notify the Director General of that opinion.

(3) Where in any other case the person investigating has made a severity assessment and considers it appropriate to do so, the person investigating may revise the assessment.

(4) A severity assessment may only be revised after consultation with the appropriate authority.

(5) On the revision of a severity assessment, the person investigating must notify—

(a) the appropriate authority, and

(b) except where paragraph (6) applies, the person concerned,

of the result of the revision.

(6) This paragraph applies for so long as—

(**a**) See regulation 20.
(**b**) See regulation 21.

(a) in the case of an investigation under paragraph 18 or 19 of Schedule 3, the Director General, or

(b) in the case of an investigation under paragraph 16 of Schedule 3 (investigations by the appropriate authority on its own behalf), the person investigating the complaint or matter,

considers the notification might prejudice the investigation or any other investigation (including a criminal investigation).

(7) A notice under paragraph (5)(b) must be—

(a) given to the person concerned in person;

(b) left with a person at, or sent by recorded delivery to, the last known address of the person concerned;

(c) given to the person concerned in person by that person's police friend, where the police friend has agreed with the appropriate authority to deliver the notice, or

(d) given to the person concerned in any other manner agreed between the person investigating and the person concerned.

Special procedure: representations to the person investigating

20.—(1) This regulation applies where the person investigating a complaint or matter has provided the person concerned with a copy of the terms of reference of the investigation, or given the person concerned a notice, under regulation 17(2) (special procedure: notification of severity assessment etc.).

(2) Where in the case of an investigation under—

(a) paragraph 18 of Schedule 3 (investigations directed by the Director General), or

(b) paragraph 19 of Schedule 3 (investigations by the Director General) other than by the Director General acting personally,

the person concerned or the person's police friend provides the person investigating the complaint or matter with a relevant statement or relevant document before the expiry of the time limit mentioned in paragraph (4), the person investigating must send the statement or document to the Director General for consideration.

(3) Where, in any other case, the person concerned or the person's police friend provides the person investigating the complaint or matter with a relevant statement or relevant document before the expiry of the time limit mentioned in paragraph (4), the person investigating must consider the statement or document.

(4) The time limit is 10 working days starting with the day after the day on which a copy of the terms of reference of the investigation is provided, or a notice is given, under regulation 17(2), unless this period is extended by—

(a) the person investigating, or

(b) in the case of an investigation under paragraph 19 of Schedule 3 other than by the Director General acting personally, the Director General.

Special procedure: interview of the person concerned

21.—(1) This regulation applies where the person investigating a complaint or matter has provided the person concerned with a copy of the terms of reference of the investigation, or given the person concerned a notice under regulation 17(2) (special procedure: notification of severity assessment etc.).

(2) In the case of an investigation under paragraph 19 of Schedule 3 (investigations by the Director General) other than by the Director General acting personally, if the Director General wishes the person concerned to be interviewed as part of the investigation, the person investigating must refer the case to the Director General for the Director General—

(a) if reasonably practicable, to agree a date and time for the interview with the person concerned;

(b) where no date and time is agreed, to specify a date and time for the interview.

(3) In any other case, if the person investigating wishes to interview the person concerned as part of the investigation, the person investigating must—

(a) if reasonably practicable, agree a date and time for the interview with the person concerned;

(b) where no date and time is agreed, specify a date and time for the interview.

(4) Where a date and time is specified under paragraph (2) or (3) and —

(a) the person concerned or that person's police friend will not be available at that time, and

(b) the person concerned proposes an alternative time which satisfies paragraph (5),

the interview must be postponed to the time proposed by the person concerned.

(5) An alternative time proposed by the person concerned must—

(a) be reasonable, and

(b) fall before the end of the period of five working days starting with the first working day after the day specified by the person investigating or the Director General.

(6) The person investigating must give the person concerned—

(a) a notice stating the date, time and place of the interview, and

(b) such information as the person investigating or, in the case of an investigation under paragraph 19 of Schedule 3 other than by the Director General acting personally, the Director General considers appropriate in the circumstances of the case to enable the person concerned to prepare for the interview.

(7) The person concerned must attend the interview.

(8) A police friend may not answer any questions asked of the person concerned during the interview.

Special procedure: duty to provide information to appropriate authority

22.—(1) In a case where the Director General or person investigating has made a severity assessment under regulation 16 (special procedure: severity assessment), the person investigating must provide the appropriate authority with such information in that person's possession as the authority may reasonably request for the purpose mentioned in paragraph (2).

(2) The purpose is determining, in accordance with the Conduct Regulations, whether the person concerned should be, or should remain, suspended—

(a) from the office of constable, and

(b) where that person is a member of a police force, from membership of that force.

Police friend: police staff members and designated police volunteers

23.—(1) This regulation applies where—

(a) it appears to—

(i) the person investigating a complaint, or

(ii) in the case of an investigation of a complaint under paragraph 19 of Schedule 3 (investigations by the Director General) other than by the Director General acting personally, the Director General,

that there is an indication that a police staff member or designated police volunteer to whose conduct the investigation relates may have committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings;

(b) in the case of an investigation of a complaint under paragraph 18 of Schedule 3 (investigations directed by the Director General), the Director General determines that there is such an indication, or

(c) the investigation of a recordable conduct matter relates to the conduct of a police staff member or designated police volunteer.

(2) The police staff member or designated police volunteer to whose conduct the investigation relates may choose—

(a) a person employed by a trade union of which that person is an official within the meaning of sections 1 and 119 of the Trade Union and Labour Relations (Consolidation) Act 1992 (meaning of "trade union")(**a**);

(b) an official of a trade union (within that meaning) whom the union has reasonably certified in writing as having experience of, or as having received training in, acting as a police staff member's companion or designated police volunteer's companion at disciplinary proceedings;

(c) a member of a police force;

(d) a special constable;

(e) a police staff member, or

(f) any other person nominated by the police staff member or designated police volunteer to whose conduct the investigation relates and approved by the chief officer of the force in which that police staff member or designated police volunteer is serving,

who is not otherwise involved in the matter to act as the police staff member or designated police volunteer's police friend.

(3) A police friend may—

(a) advise the police staff member or designated police volunteer to whose conduct the investigation relates throughout proceedings under these Regulations;

(b) provide any relevant statement or relevant document to the person investigating;

(c) accompany the police staff member or designated police volunteer to whose conduct the investigation relates to any interview of that person conducted by the person investigating, and

(d) make representations to the Director General concerning any aspect of the proceedings under these Regulations.

(4) Paragraphs (4) and (5) of regulation 18 (police friend: special procedure) apply for the purposes of this regulation as they apply for the purposes of that regulation.

Accelerated procedure: statement and report

24.—(1) Where paragraph 20A of Schedule 3 (accelerated procedure in special cases)(**b**) applies, the person investigating, the appropriate authority and (where the person investigating is not also the Director General carrying out the investigation under paragraph 19 of Schedule 3 personally) the Director General must proceed in accordance with—

(a) this regulation, and

(b) regulation 25 (accelerated procedure: investigations by the appropriate authority on its own behalf) or regulation 26 (accelerated procedure: other investigations) as appropriate.

(2) In the case of an investigation under paragraph 16 of Schedule 3 (investigations by the appropriate authority on its own behalf), the person investigating must—

(a) submit the documents mentioned in paragraph (5) to the appropriate authority, and

(b) if that person was appointed following a determination by the Director General under paragraph 15 or 26 of Schedule 3 (power of the Director General to determine the form of an investigation and re-investigation), send a copy of those documents to the Director General.

(**a**) 1992 c. 52. There are amendments to section 119 but none is relevant.

(**b**) Paragraph 20A was substituted by paragraphs 9 and 23 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(3) In the case of an investigation under paragraph 18 of Schedule 3 (investigations directed by the Director General), other than where the Director General has made a determination in accordance with paragraph 20A(1)(b) of Schedule 3—

(a) the person investigating must submit the documents mentioned in paragraph (5) to the Director General, and

(b) if the Director General agrees that the special conditions are satisfied, the Director General must submit those documents to the appropriate authority.

(4) In any other case, the Director General must submit the documents mentioned in paragraph (5) to the appropriate authority.

(5) The documents are—

(a) a statement of—

(i) the belief of the person investigating or Director General (as the case may be) that the appropriate authority would, on consideration of the matter, be likely to consider that the special conditions are satisfied, and

(ii) the grounds for that belief, and

(b) a written report on the investigation to that point.

(6) Subject to paragraph (7), a person submitting a report under this regulation is not prevented by any obligation of secrecy imposed by any rule of law or otherwise from including all such matters in the report as the person sees fit.

(7) Where a person would contravene section 21A of the 2002 Act (restriction on disclosure of sensitive information)(**a**) by submitting a report in its entirety to the appropriate authority under this regulation, the person must instead submit the report having removed or obscured the information which by virtue of section 21A the person must not disclose.

(8) A statement and report may be submitted under this regulation—

(a) whether or not a previous statement and report have been submitted, but

(b) if a previous statement and report (or previous statements and reports) have been submitted, only if the person submitting them has grounds to believe that the appropriate authority will reach a different determination under regulation 25 or 26.

(9) After the submission of a statement and report under this regulation, the person investigating the complaint or recordable conduct matter must continue the investigation to such extent as—

(a) in the case of an investigation under paragraph 16 of Schedule 3, the person investigating considers appropriate;

(b) in the case of an investigation under paragraph 18 or 19 of Schedule 3, the Director General considers appropriate.

(10) In regulations 25 and 26, "special report" means a report submitted under this regulation.

Accelerated procedure: investigations by the appropriate authority on its own behalf

25.—(1) This regulation applies if a statement and special report on an investigation under paragraph 16 of Schedule 3 (investigations by the appropriate authority on its own behalf) are submitted to the appropriate authority under regulation 24 (accelerated procedure: statement and report).

(2) The appropriate authority must determine whether the special conditions are satisfied.

(3) If the appropriate authority determines that the special conditions are satisfied, it must, unless it considers that the circumstances are such as to make it inappropriate to do so—

(a) certify the case as one where the special conditions are satisfied for the purposes of the Conduct Regulations, and

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(**a**) Section 21A was inserted by section 19 of the Policing and Crime Act 2017 and amended by paragraphs 15 and 28 of Schedule 9 to that Act.

(b) take such steps as are required by those Regulations in relation to the case(**a**).

(4) If the appropriate authority determines that—

(a) the special conditions are not satisfied, or

(b) although those conditions are satisfied, the circumstances are such as to make it inappropriate at present to bring disciplinary proceedings,

it must notify the person investigating the complaint or recordable conduct matter of its determination.

(5) If the statement and special report were required under regulation 23(2)(b) to be copied to the Director General, the appropriate authority must notify the Director General of—

(a) a certification under paragraph (3), or

(b) its determination under paragraph (4).

Accelerated procedure: other investigations

26.—(1) This regulation applies if a statement and special report on an investigation under—

(a) paragraph 18 of Schedule 3 (investigations directed by the Director General), or

(b) paragraph 19 of Schedule 3 (investigations by the Director General),

are submitted to the appropriate authority under regulation 24 (accelerated procedure: statement and report).

(2) The appropriate authority must determine whether the special conditions are satisfied.

(3) If the appropriate authority determines that the special conditions are satisfied, it must, unless it considers that the circumstances are such as to make it inappropriate to do so—

(a) certify the case as one where the special conditions are satisfied for the purposes of the Conduct Regulations, and

(b) take such steps as are required by those Regulations in relation to the case.

(4) The appropriate authority must notify the Director General of a certification under paragraph (3).

(5) If the appropriate authority determines that—

(a) the special conditions are not satisfied, or

(b) although those conditions are satisfied, the circumstances are such as to make it inappropriate at present to bring disciplinary proceedings,

it must submit a memorandum to the Director General notifying the Director General of its determination and the reasons for it.

(6) On receipt of a memorandum under paragraph (5), the Director General must—

(a) consider the memorandum, and

(b) determine, in light of that consideration, whether or not to direct the appropriate authority to certify the case under paragraph (3).

(7) If the Director General determines not to direct the appropriate authority to certify the case under paragraph (3), the Director General must notify—

(a) the appropriate authority, and

(b) if the person investigating is not also the Director General carrying out the investigation under paragraph 19 of Schedule 3 personally, the person investigating the complaint or recordable conduct matter,

of that determination.

(**a**) See regulation 2(1) and Part 5 of the Conduct Regulations (meaning of "special conditions" and accelerated misconduct hearings).

(8) If the Director General determines to direct the appropriate authority to certify the case under paragraph (3), the Director General must—

(a) provide the appropriate authority with a statement of the Director General's reasons for doing so, and

(b) direct the appropriate authority to certify the case under paragraph (3),

and the appropriate authority must certify the case under that paragraph, take such steps as are required by the Conduct Regulations in relation to the case and keep the Director General informed of whatever action it takes in response to the direction.

(9) The Director General may at any time withdraw a direction given under this regulation.

Report on investigation

27.—(1) For the purposes of paragraph 22(7) of Schedule 3 (final reports on investigations)(**a**), a report on an investigation to which paragraph 19A of Schedule 3 (special procedure where investigation relates to police officer or special constable) applies must—

(a) include an accurate summary of the evidence;

(b) be accompanied by, or refer to, any relevant documents, and

(c) where the investigation was carried out under paragraph 16 of Schedule 3 (investigations by the appropriate authority on its own behalf), include the opinion of the person investigating as to the matters mentioned in paragraph (3)(a), (b) and (e).

(2) On completion of an investigation—

(a) carried out under paragraph 18 or 19 of Schedule 3 (investigations directed by the Director General and investigations by the Director General), and

(b) to which paragraph 19A of that Schedule applies,

where the Director General seeks the views of the appropriate authority on the matters mentioned in paragraph 23(5A)(a) of that Schedule (action by the Director General in relation to an investigation report)(**b**), the Director General must notify the appropriate authority of the Director General's opinion as to the matters mentioned in paragraph (3).

(3) The matters are—

(a) 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;

(b) whether or not any such person's performance is unsatisfactory;

(c) whether or not disciplinary proceedings should be brought against any such person and, if so, what form those proceedings should take (taking into account, in particular, the seriousness of any breach of the Standards of Professional Behaviour);

(d) whether or not performance proceedings should be brought against any such person;

(e) whether or not any matter which was the subject of the investigation should be referred to be dealt with under the reflective practice review process.

(4) The appropriate authority must provide the Director General with its views (if any) on the matters mentioned in paragraph 23(5A)(a) of Schedule 3 before the expiry of the time limit mentioned in paragraph (5).

(5) The time limit is 28 days starting with the day after which the Director General seeks the appropriate authority's views in accordance with paragraph 23(5A)(a) of Schedule 3, unless this period is extended by the Director General.

(**a**) Paragraph 22(7) was inserted by paragraphs 1, 3 and 12 of Schedule 23 to the Criminal Justice and Immigration Act 2008 and amended by paragraph 47 of Schedule 5 to the Policing and Crime Act 2017.

(**b**) Paragraph 23(5A) was inserted by paragraphs 9 and 26 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

Provision of copy of report on investigation etc. to person to whose conduct the investigation related

28.—(1) Except where paragraph (2) applies, where—

(a) the Director General determines under paragraph 23(5A)(b) of Schedule 3 (duty to make determinations on receipt or completion of report on investigation) that neither disciplinary proceedings nor performance proceedings should be brought against a person to whose conduct the investigation related, or

(b) the appropriate authority determines under paragraph 24(6) of Schedule 3 (duty to make determinations on receipt of report on investigation)(**a**) that it will bring neither disciplinary proceedings nor performance proceedings against such a person,

the Director General or appropriate authority (as the case may be) must provide the person with a copy of the report on the investigation or such parts of it as relate to the person.

(2) This paragraph applies for so long as the Director General or appropriate authority (as the case may be) believes that providing a copy of the report, or part of it, under paragraph (1) might prejudice any investigation or proceedings (including a criminal investigation or proceedings) or review under paragraph 25 of Schedule 3 (reviews with respect to an investigation)(**b**).

(3) A copy of the report, or part of it, provided under paragraph (1) may be in a form which keeps anonymous the identity of the complainant (if any) or any other person.

(4) Where the Director General or appropriate authority would contravene section 21A of the 2002 Act (restriction on disclosure of sensitive information) by providing a copy of the report, or part of it, under paragraph (1), the Director General or appropriate authority must instead provide the copy having removed or obscured the information which by virtue of section 21A must not be disclosed.

Reviews

29.—(1) This regulation applies to reviews under—

(a) paragraph 6A of Schedule 3 (reviews relating to complaints dealt with other than by investigation)(**c**);

(b) paragraph 25 of Schedule 3 (reviews with respect to an investigation).

(2) Subject to paragraphs (3) and (4), an application for a review must be made within a period of 28 days starting with the day after the day on which the information mentioned in regulation 33(2)(a) (matters of which the complainant must be kept properly informed: reviews) was provided to the complainant.

(3) For the purposes of the period mentioned in paragraph (2), the following is to be left out of account—

(a) any time elapsing between the application for a review being received by the Director General under paragraph 31(1)(a) of Schedule 3 (reviews: applications erroneously made to the Director General)(**d**) and being forwarded to the local policing body under paragraph 31(2)(a) of that Schedule;

(b) any time elapsing between the application for a review being received by the local policing body under paragraph 32(1)(a) of Schedule 3 (reviews: applications erroneously

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(**a**) Paragraph 24(6) was substituted by paragraphs 1, 3 and 14 of Schedule 23 to the Criminal Justice and Immigration Act 2008 and amended by paragraphs 1 and 14 of Schedule 14 to the Police Reform and Social Responsibility Act 2011 and paragraphs 9, 27 and 47 of Schedule 5 to the Policing and Crime Act 2017.

(**b**) Paragraph 25 was amended by paragraphs 1, 15 and 20 of Schedule 14 to the Police Reform and Social Responsibility Act 2011 and paragraphs 1 and 8 of Schedule 4, paragraphs 29, 34 and 47 of Schedule 5 and paragraphs 15 and 56 of Schedule 9 to the Policing and Crime Act 2017.

(**c**) Paragraph 6A was inserted by paragraphs 29 and 31 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(**d**) Paragraph 31 was substituted by paragraphs 29 and 40 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

made to a local policing body)(**a**) and being forwarded to the Director General under paragraph 32(2)(a) of that Schedule.

(4) The relevant review body(**b**) may extend the period mentioned in paragraph (2) in any case where it is satisfied that, because of the special circumstances of the case, it is just to do so.

(5) Subject to paragraph (6), an application for a review must be made in writing and must state—

(a) details of the complaint;

(b) the date on which the complaint was made;

(c) the name of the police force or local policing body whose decision is the subject of the application, and

(d) the date on which the information mentioned in regulation 33(2)(a) was provided to the complainant.

(6) Where the relevant review body receives an application for a review which fails to comply with one or more of the requirements mentioned in paragraph (5), it may decide to proceed as if those requirements had been complied with.

(7) Where the relevant review body receives an application for a review, subject to paragraph (8), it must request any information from any person which it considers necessary to dispose of the review.

(8) Sub-paragraphs (2) to (3A) of paragraph 19ZA of Schedule 3 (limitations on information notices)(**c**) apply to a request for information under paragraph (7) as they apply to an information notice served under paragraph 19ZA of Schedule 3.

(9) The relevant review body must comply with its duty under paragraph 6A(4) or 25(4A) of Schedule 3 (duty to determine whether outcome of complaint is reasonable and proportionate)(**d**) as soon as practicable.

Recommendations by the Director General or a local policing body

30.—(1) The kinds of recommendation described for the purposes of paragraph 28ZA(1) of Schedule 3 (recommendations by the Director General or a local policing body)(**e**) are—

(a) a recommendation that an apology be made to the complainant concerned;

(b) a recommendation that any property seized from the complainant concerned be returned;

(c) a recommendation that a matter be referred to be dealt with under the reflective practice review process;

(d) any other recommendation, other than a recommendation that compensation be paid, which the Director General or local policing body (as the case may be) considers appropriate to remedy the dissatisfaction expressed by the complainant concerned.

(2) A recommendation under paragraph 28ZA of Schedule 3 may only be made—

(a) where the recommendation is made by virtue of paragraph 24(6A) of Schedule 3 (action by the appropriate authority in response to an investigation report)(**f**), to the chief officer to whose conduct the complaint relates;

(**a**) Paragraph 32 was substituted by paragraphs 29 and 41 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(**b**) See paragraph 30 of Schedule 3 (which was inserted by paragraphs 1, 15 and 22 of Schedule 14 to the Police Reform and Social Responsibility Act 2011 and amended by paragraphs 29 and 39 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the Policing and Crime Act 2017) and regulation 32 of these Regulations.

(**c**) Paragraph 19ZA was inserted by section 137 of the Anti-social Behaviour, Crime and Policing Act 2014 and amended by paragraphs 13 and 61 of Schedule 10 to the Investigatory Powers Act 2016 (c. 25) and paragraphs 15 and 56 of the Policing and Crime Act 2017.

(**d**) Sub-paragraph (4A) of paragraph 25 was inserted by paragraphs 29 and 34 of Schedule 5 to the Policing and Crime Act 2017.

(**e**) Paragraph 28ZA was inserted by paragraph 45 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(**f**) Paragraph 24(6A) was inserted by paragraphs 9 and 27 of Schedule 5 to the Policing and Crime Act 2017.

(b) in all other cases, to the appropriate authority.

(3) Paragraphs (4) to (7) apply where a person makes a recommendation under—

(a) paragraph 28ZA of Schedule 3;

(b) paragraph 6A(6)(a) or (b) of Schedule 3 (reviews relating to complaints dealt with other than by investigation: recommendations other than under paragraph 28ZA);

(c) paragraph 25(4E)(a), (b) or (c) or (4G)(b) of Schedule 3 (reviews with respect to an investigation: recommendations other than under paragraph 28ZA)(**a**).

(4) The person to whom the recommendation is made must provide to the person making the recommendation a written response stating—

(a) whether the person to whom the recommendation is made accepts the recommendation;

(b) if the person does, the steps that the person is proposing to take to give effect to the recommendation;

(c) if the person does not, the reasons why the person does not.

(5) Subject to paragraph (6), the person to whom the recommendation is made must provide the response before the end of the period of 28 days starting with the day after the day on which the recommendation was made.

(6) The person making the recommendation may extend the period mentioned in paragraph (5) and if the person does so the person to whom the recommendation is made must provide the response before the end of the extended period.

(7) The person making the recommendation must send a copy of the recommendation and the response to it to—

(a) the complainant concerned;

(b) any interested person, and

(c) except in a case where it appears to the person making the recommendation that to do so might prejudice any investigation (including a criminal investigation), the person complained against (if any).

(8) In this regulation, "complainant concerned"—

(a) in relation to a recommendation under paragraph 28ZA of Schedule 3, has the meaning given by sub-paragraph (3) of that paragraph;

(b) in relation to a recommendation under paragraph 6A(6)(a) or (b) or 25(4E)(a), (b) or (c) or (4G)(b) of Schedule 3, means the complainant who applied under paragraph 6A(2) or 25(1B) of Schedule 3 for the review.

Recommendations by the Director General under paragraph 28A of Schedule 3

31.—(1) The types of conduct matter specified for the purposes of paragraph 28A(4)(a)(ii) of Schedule 3 (recommendation following receipt or completion of report relating to a conduct matter)(**b**) are any matter—

(a) falling within paragraph 13(1)(a) of Schedule 3 (conduct matters relating to incidents where a person has died or suffered serious injury etc.);

(b) relating to—

(i) a serious assault, as determined in guidance issued by the Director General;

(ii) a serious sexual offence, as determined in guidance issued by the Director General;

(**a**) Sub-paragraphs (4E) and (4G) of paragraph 25 were inserted by paragraphs 29 and 34 of Schedule 5 to the Policing and Crime Act 2017; sub-paragraph (4E)(b) was amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(**b**) Paragraph 28A was inserted by section 139 of the Anti-social Behaviour, Crime and Policing Act 2014; sub-paragraph (4)(a) was amended by paragraphs 15 and 56 of Schedule 9 to the Policing and Crime Act 2017.

(iii) serious corruption, including abuse of position for a sexual purpose or for the purpose of pursuing an improper emotional relationship, as determined in guidance issued by the Director General;

(iv) a criminal offence or behaviour which is liable to lead to disciplinary proceedings and which in either case was aggravated by discriminatory behaviour on the grounds of a person's race, sex, religion or other status determined in guidance by the Director General;

(v) a relevant offence;

(vi) conduct which took place in the same incident as one in which conduct falling within sub-paragraphs (i) to (v) took place;

(c) that the Director General determines must be investigated in accordance with regulation 8 (recordable conduct matters relating to the conduct of chief officers etc.);

(d) in respect of which the Director General gives a notification to the appropriate authority under paragraph 13(1)(c) of Schedule 3 (power of the Director General to require a conduct matter to be referred)(**a**), or

(e) that the Director General is treating as having been referred to the Director General under paragraph 13A(1) of Schedule 3 (power of Director General to treat conduct matter as having been referred)(**b**).

(2) The types of complaint specified for the purposes of paragraph 28A(4)(a)(iii) and (b) of Schedule 3 (recommendation following receipt or completion of report or review relating to a complaint)(**c**) are any complaint—

(a) falling within paragraph 4(1)(a) of Schedule 3 (complaints alleging that conduct or other matter has resulted in death or serious injury)(**d**);

(b) alleging conduct which constitutes—

(i) a serious assault, as determined in guidance issued by the Director General;

(ii) a serious sexual offence, as determined in guidance issued by the Director General;

(iii) serious corruption, including abuse of position for a sexual purpose or for the purpose of pursuing an improper emotional relationship, as determined in guidance issued by the Director General;

(iv) a criminal offence or behaviour which is liable to lead to disciplinary proceedings and which in either case was aggravated by discriminatory behaviour on the grounds of a person's race, sex, religion or other status determined in guidance by the Director General;

(v) a relevant offence;

(c) which arises from the same incident as one in which any conduct falling within sub-paragraphs (a) or (b) took place;

(d) that the Director General determines must be investigated in accordance with regulation 5 (complaints relating to the conduct of chief officers etc.);

(e) in respect of which the Director General gives a notification to the appropriate authority under paragraph 4(1)(c) of Schedule 3 (power of the Director General to require a complaint to be referred)(**e**), or

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(**a**) Paragraph 13(1)(c) was amended by paragraphs 15 and 56 of Schedule 9 to the Policing and Crime Act 2017.

(**b**) Paragraph 13A(1) was inserted by section 17(1) and (6) of the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(**c**) Sub-paragraph (4)(b) of paragraph 28A was amended by paragraph 47 of Schedule 5 to the Policing and Crime Act 2017.

(**d**) Paragraph 4(1)(a) was amended by paragraphs 1 and 7 of Schedule 4 to the Policing and Crime Act 2017.

(**e**) Paragraph 4(1)(c) was amended by paragraphs 15 and 56 of Schedule 9 to the Policing and Crime Act 2017.

(f) that the Director General is treating as having been referred to the Director General under paragraph 4A(1) of Schedule 3 (power of the Director General to treat complaint as having been referred)(**a**).

Relevant review body

32. The description of complaints specified for the purposes of paragraph 30(1)(a) of Schedule 3 (reviews: cases where the Director General is the relevant review body)(**b**) is any complaint—

(a) about the conduct of a senior officer;

(b) in relation to which the appropriate authority is unable to satisfy itself, from the complaint alone, that the conduct complained of (if it were proved)—

(i) would not justify the bringing of criminal or disciplinary proceedings against a person serving with the police, or

(ii) would not involve an infringement of a person's rights under Article 2 or 3 of the Convention (within the meaning of the Human Rights Act 1998);

(c) that has been, or must be, referred to the Director General under paragraph 4 of Schedule 3 (reference of complaints to the Director General)(**c**);

(d) that the Director General is treating as having been referred to the Director General under paragraph 4A(1) of Schedule 3 (power of the Director General to treat complaint as having been referred);

(e) arising from the same incident as a complaint to which any of sub-paragraphs (a) to (d) applies;

(f) to any part of which any of sub-paragraphs (a) to (e) applies.

PART 4

Keeping the complainant and interested person informed

Matters of which the complainant and interested person must be kept properly informed

33.—(1) Paragraph (2) specifies matters of which the complainant and interested person must be kept properly informed, in accordance with sections 20(4)(d) and 21(9)(c) of the 2002 Act (duties to keep the complainant informed and provide information for interested persons)(**d**).

(2) The matters are—

(a) in the case of the complainant, in relation to any right to apply for a review conferred on the complainant by paragraph 6A or 25 of Schedule 3 (reviews)—

(i) the identity of the relevant review body;

(ii) where the appropriate authority has determined that the Director General is the relevant review body, the paragraph of regulation 32 (relevant review body) relied upon in making that determination;

(iii) where the appropriate authority has determined that the Director General is not the relevant review body, the fact that there is no right to apply to the Director General for a review;

(**a**) Paragraph 4A(1) was inserted by section 17(1) and (3) of the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(**b**) Paragraph 30(1)(a) was inserted by paragraphs 1, 15 and 22 of Schedule 14 to the Police Reform and Social Responsibility Act 2011 and amended by paragraphs 29 and 39 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the Policing and Crime Act 2017.

(**c**) Paragraph 4 was amended by paragraphs 277 and 300 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 and section 17(1) and (2) of, and paragraphs 1 and 7 of Schedule 4, paragraphs 1, 4, 29 and 30 of Schedule 5 and paragraphs 15 and 56 of Schedule 9 to, the Policing and Crime Act 2017.

(**d**) Sections 20(4)(d) and 21(9)(c) were substituted by section 15(1), (3) and (7) of the Policing and Crime Act 2017.

(iv) the time limit for applying for a review, and

(v) the effect of regulation 29(5) (applications for a review: requirements);

(b) the progress of any—

(i) criminal proceedings;

(ii) disciplinary proceedings;

(iii) performance proceedings, or

(iv) reflective practice review process,

brought in relation to, or arising from, any matter which was the subject of the complaint, recordable conduct matter or DSI matter;

(c) the outcome of any such proceedings or process;

(d) where an appeal is brought against the outcome of any such proceedings, the fact and outcome of the appeal.

Manner in which duties to keep the complainant and interested person informed are to be performed

34.—(1) In accordance with sections 20(5) and 21(10) of the 2002 Act (duties to keep the complainant informed and provide information for interested persons)(**a**), the following provisions of this regulation specify the manner in which the duties imposed on the Director General and appropriate authority by those sections are to be performed.

(2) The Director General or appropriate authority (as the case may be) must inform the complainant or interested person of—

(a) the progress of the handling of the complaint, recordable conduct matter or DSI matter and any of the matters mentioned in regulation 33(2)(b) (progress of criminal proceedings etc.) promptly and in any event—

(i) if there has been no previous notification, within four weeks of the start of the handling of the complaint, proceedings or process, and

(ii) in any other case, within four weeks of the previous notification;

(b) the following matters—

(i) the outcome of the handling of the complaint, recordable conduct matter or DSI matter;

(ii) the matter mentioned in regulation 33(2)(c) (outcome of criminal proceedings etc.), and

(iii) the matters mentioned in regulation 33(2)(d) (fact and outcome of appeal against outcome of criminal proceedings etc.),

promptly and in any event within five working days of the outcome (and, where applicable, the bringing of the appeal).

(3) The information required by paragraph (2) must be given in writing, unless, in the case of a complaint, the complaint—

(a) was made otherwise than in writing, and

(b) is being handled otherwise than in accordance with Schedule 3(**b**).

(4) The appropriate authority must inform the complainant in writing of—

(a) any right to apply for a review conferred on the complainant by paragraph 6A or 25 Schedule 3 (reviews), and

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(**a**) Section 20(5) was amended by paragraphs 15 and 26 of Schedule 9 to the Policing and Crime Act 2017; section 21(10) was amended by paragraphs 1 and 7 of Schedule 12 to the Serious Organised Crime and Police Act 2005 and paragraphs 15 and 27 of Schedule 9 to the Policing and Crime Act 2017.

(**b**) See paragraph 2(6C) of Schedule 3 (which was inserted by paragraphs 1 and 2 of Schedule 5 to the Policing and Crime Act 2017).

(b) the matters mentioned in regulation 33(2)(a) (matters relating to right to apply for a review),

promptly and in any event within five working days of the outcome of the handling of the complaint.

(5) In performing the duties imposed by sections 20(1), (2) and (3A) and 21(6), (7) and (8A) of the 2002 Act(**a**), the Director General or appropriate authority (as the case may be) must determine whether it is appropriate to offer, or grant a request for, a meeting with a complainant or interested person.

(6) As soon as practicable after any such meeting, the Director General or appropriate authority (as the case may be) must send the complainant or interested person a written record of the meeting and an account of how any concerns of that person will be addressed.

Exceptions to duties to keep the complainant and interested person informed

35.—(1) In accordance with sections 20(5) and 21(10) of the 2002 Act (duties to keep the complainant informed and provide information for interested persons), paragraph (2) specifies the circumstances in which the duties imposed on the Director General and appropriate authority by those sections do not apply.

(2) The circumstances are where in the opinion of the Director General or appropriate authority (as the case may be) the non-disclosure of information is necessary for a purpose mentioned in paragraph (3).

(3) The purposes are—

(a) preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any actual or prospective criminal proceedings;

(b) preventing the disclosure of information in any circumstances in which its non-disclosure—

(i) is in the interests of national security;

(ii) is for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders;

(iii) is required on proportionality grounds, or

(iv) is otherwise necessary in the public interest.

(4) The Director General or appropriate authority (as the case may be) may only conclude that the non-disclosure of information is necessary under paragraph (2) if satisfied that—

(a) there is a real risk of the disclosure of that information causing an adverse effect, and

(b) that adverse effect would be significant.

(5) The Director General or appropriate authority (as the case may be) must consider whether the non-disclosure of information is justified under paragraph (2) in circumstances where—

(a) that information is relevant to, or may be used in, any actual or prospective disciplinary proceedings or performance proceedings or appeal against the outcome of such proceedings;

(b) the disclosure of that information may lead to the contamination of the evidence of witnesses during such proceedings or appeal;

(c) the disclosure of that information might prejudice the welfare or safety of any third party;

(d) that information constitutes criminal intelligence.

(**a**) Subsections (1) and (2) of section 20 were amended by paragraph 47 of Schedule 5, and paragraphs 15 and 26 of Schedule 9, to the Policing and Crime Act 2017; subsection (3A) of section 20 was inserted by sections 15(1) and (2) of that Act; subsections (6) and (7) of section 21 were amended by paragraphs 1 and 7 of Schedule 12 to the Serious Organised Crime and Police Act 2005 and paragraph 47 of Schedule 5, and paragraphs 15 and 27 of Schedule 9, to the Policing and Crime Act 2017; subsection (8A) of section 21 was inserted by sections 15(1) and (6) of the Policing and Crime Act 2017.

Meaning of "relative"

36. For the purposes of section 21(12) of the 2002 Act (duty to provide information for other persons: meaning of "relative") the description of person prescribed is any spouse, partner, parent or adult child.

Appropriate authority to notify the Director General of outcome of disciplinary proceedings etc.

37. The appropriate authority must notify the Director General of–

(a) the outcome of any disciplinary proceedings, performance proceedings or reflective practice review process brought in relation to, or arising from, any matter dealt with in a report submitted or completed under paragraph 22 or 24A of Schedule 3 (final reports on investigations), as soon as practicable after the outcome of the proceedings or process;

(b) the bringing of any appeal against the outcome of any such proceedings, as soon as practicable after the appropriate authority becomes aware of the appeal;

(c) the outcome of any such appeal, as soon as practicable after its conclusion.

PART 5

General

Withdrawn complaints

38.—(1) This regulation applies where an appropriate authority receives a notification signed by the complainant or the complainant's solicitor or other authorised agent on the complainant's behalf that the complainant—

(a) withdraws the complaint, or

(b) does not wish any further steps to be taken.

(2) The appropriate authority must record the withdrawal or the fact that the complainant does not wish any further steps to be taken and, subject to the following provisions of this regulation, the provisions of Part 2 of the 2002 Act cease to apply to the complaint.

(3) Where the notification mentioned in paragraph (1) relates to a complaint which—

(a) was referred to the Director General under paragraph 4(1) of Schedule 3 (complaints which must be referred to the Director General) or is being treated by the Director General as having been so referred under paragraph 4A(1) of Schedule 3 (power of the Director General to treat complaint as having been referred), and

(b) has not been referred back to the appropriate authority under paragraph 5(2) of Schedule 3 (referral of complaints back to the appropriate authority)(**a**),

the appropriate authority must notify the Director General that it has recorded the withdrawal or the fact that the complainant does not wish any further steps to be taken.

(4) Where the notification mentioned in paragraph (1) relates to a complaint which the appropriate authority knows is subject to a review under paragraph 6A or 25 of Schedule 3 (reviews), the appropriate authority must notify the relevant review body that it has recorded the withdrawal or the fact that the complainant does not wish any further steps to be taken.

(5) In a case falling within paragraph (3) or paragraphs (3) and (4), the Director General must—

(a) determine whether it is in the public interest for the complaint to be treated as a recordable conduct matter, and

(**a**) Paragraph 5(2) was amended by paragraphs 9 and 10 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the Policing and Crime Act 2017.

(b) notify the appropriate authority and, in a case falling within paragraphs (3) and (4) in which the relevant review body is a local policing body, the relevant review body of the Director General's determination.

(6) In a case falling within paragraph (4) (but not also paragraph (3)), the appropriate authority must—

(a) determine whether it is in the public interest for the complaint to be treated as a recordable conduct matter, and

(b) notify the relevant review body of its determination and the reasons for it.

(7) Where the notification mentioned in paragraph (1) relates to a complaint which does not fall within paragraph (3) or (4), the appropriate authority must determine whether it is in the public interest for the complaint to be treated as a recordable conduct matter.

(8) Where a determination is made under paragraph (5), (6) or (7) that it is in the public interest for the complaint is to be treated as a recordable conduct matter, the provisions of Part 2 of Schedule 3 (handling of conduct matters) apply to that matter.

(9) Where—

(a) a complaint is subject to a review by the Director General under paragraph 25 of Schedule 3, and

(b) the appropriate authority notifies the Director General (as the relevant review body) under paragraph (6)(b) that it has determined that the complaint is not to be treated as a recordable conduct matter,

the Director General must consider whether it is in the public interest for that determination to be reversed and, if so, the Director General must instruct the appropriate authority to reverse the determination.

(10) Subject to paragraph (11), the appropriate authority must notify the person complained against if—

(a) it records the withdrawal of the complaint or the fact that the complainant does not wish any further steps to be taken;

(b) a determination is made under paragraph (5), (6) or (7) that it is in the public interest for the complaint to be treated as a recordable conduct matter;

(c) the Director General instructs the appropriate authority to reverse a determination not to treat the complaint as a recordable conduct matter;

(d) the provisions of Part 2 of the 2002 Act cease to apply to the complaint.

(11) Nothing in paragraph (10) requires the appropriate authority to make a notification if it believes that to do so —

(a) might prejudice any criminal investigation or pending proceedings, or

(b) would otherwise be contrary to the public interest.

Withdrawn complaints: no written signed notification

39.—(1) This regulation applies where the complainant indicates a wish—

(a) to withdraw the complaint, or

(b) that no further steps be taken,

but does not provide a notification to that effect signed by the complainant or the complainant's solicitor or other authorised agent on the complainant's behalf.

(2) The appropriate authority must write to the complainant to determine how the complainant wishes to proceed.

(3) A letter under paragraph (2) must, unless otherwise determined in guidance issued by the Director General, be sent by recorded delivery.

(4) Where the complainant—

(a) replies confirming the complainant's wish to withdraw the complaint or that no further steps be taken, or

(b) does not reply within a period of 28 days starting with the day after the day the letter was sent by the appropriate authority in accordance with paragraph (2),

the appropriate authority must proceed as if it had received a notification signed by the complainant that the complainant withdraws the complaint.

Suspension of investigation or other procedure

40.—(1) The Director General and, subject to paragraph (2), an appropriate authority may suspend any investigation or other procedure under Part 2 of the 2002 Act which, in the opinion of the Director General or appropriate authority, would, if it were to continue, prejudice any criminal investigation or proceedings.

(2) The Director General may direct that any investigation or other procedure under Part 2 of the 2002 Act which is liable to be, or has been, suspended by an appropriate authority under paragraph (1) is to continue, or be resumed, if the Director General is of the view that it is in the public interest to make such a direction.

(3) The Director General must consult the appropriate authority before making such a direction.

Resumption of investigation of complaint after criminal proceedings

41.—(1) This regulation applies where—

(a) the Director General or an appropriate authority has suspended the whole or part of the investigation of a complaint until the conclusion of criminal proceedings under regulation 40 (suspension of investigation or other procedure), and

(b) those proceedings have concluded.

(2) Where the complainant has not indicated—

(a) a wish for the investigation to start or be resumed, or

(b) a wish that the investigation is not started or resumed,

the Director General or appropriate authority (as the case may be) must write to the complainant to determine how the complainant wishes to proceed.

(3) Where the complainant indicates a wish for the investigation to start or be resumed, the Director General or appropriate authority (as the case may be) must start or resume the investigation.

(4) Where the complainant—

(a) indicates a wish that the investigation is not started or resumed, or

(b) does not reply to a letter under paragraph (2) within a period of 28 days starting with the day after the letter was sent by the Director General or appropriate authority in accordance with paragraph (2),

the Director General or appropriate authority (as the case may be) must determine whether it is in the public interest for the complaint to be treated as a recordable conduct matter.

(5) Where the Director General or appropriate authority determines that it is not in the public interest for the complaint to be treated as a recordable conduct matter, the provisions of Part 2 of the 2002 Act cease to apply to the complaint.

(6) Where the Director General or appropriate authority determines that it is in the public interest for the complaint to be treated as a recordable conduct matter, the provisions of Part 2 of Schedule 3 (handling of conduct matters) apply to the matter.

(7) Subject to paragraph (8), the Director General or appropriate authority (as the case may be) must notify the person complained against if paragraph (5) or (6) applies.

(8) Nothing in paragraph (7) requires the Director General or appropriate authority to make a notification if the Director General or appropriate authority (as the case may be) believes that that

might prejudice any criminal investigation or pending proceedings or would be contrary to the public interest.

Complaints and conduct matters relating to the conduct of a person who has ceased to be a person serving with the police

42.—(1) Where a complaint or conduct matter relates to the conduct of a person who has ceased to be a person serving with the police since the time of the conduct and on or after 15th December 2017, the provisions of Part 2 of the 2002 Act and these Regulations apply—

(a) as if the person were still serving in the position in which the person last served, and

(b) with the modifications to Part 2 of the 2002 Act and to these Regulations set out in Schedule 2 to these Regulations.

(2) Where a complaint or conduct matter relates to the conduct of a person who has ceased to be a person serving with the police since the time of the conduct and before 15th December 2017, the provisions of Part 2 of the 2002 Act apply in relation to such a person as if they did not include any requirement to determine whether disciplinary proceedings or performance proceedings should be brought against a person whose conduct is the subject-matter of a report.

Complaints and conduct matters concerning a person whose identity is unascertained

43.—(1) Where a complaint or conduct matter relates to the conduct of a person whose identity—

(a) is unascertained at the time at which the complaint is made or conduct matter is recorded, or

(b) is not ascertained during, or subsequent to, the investigation of the complaint or conduct matter,

Part 2 of the 2002 Act and these Regulations apply in relation to such a person as if they did not include the requirements mentioned in paragraph (2).

(2) The requirements are—

(a) any requirement for the person complained against or to whose conduct the conduct matter relates to be given a notification or an opportunity to make representations;

(b) any requirement for the Director General or appropriate authority to determine whether a criminal offence may have been committed by a person whose conduct has been the subject-matter of an investigation, or to take any action in relation to such a determination;

(c) any requirement for the Director General or appropriate authority to determine whether disciplinary proceedings or performance proceedings should be brought against a person whose conduct is the subject-matter of a report.

(3) Where the identity of a person mentioned in paragraph (1) is subsequently ascertained, the Director General and appropriate authority must, so far as possible, proceed in accordance with Part 2 of the 2002 Act and these Regulations, regardless of any previous action taken under that Part and these Regulations as modified by paragraph (1).

Records to be kept by local policing bodies and chief officers

44. Every local policing body and chief officer must keep records, in such form as the Director General determines, of—

(a) every complaint that is recorded by it or the chief officer under paragraph 2(6A) or 4A(4) of Schedule 3 (duties to record complaints)(**a**);

(**a**) Paragraph 2(6A) was inserted by paragraphs 1 and 2 of Schedule 5 to the Policing and Crime Act 2017; paragraph 4A(4) was inserted by section 17(1) and (3) of that Act.

(b) every complaint that is made to it or the chief officer which is–

(i) not recorded under paragraph 2(6A) or 4A(4) of Schedule 3, and

(ii) of a description determined by the Director General;

(c) every purported complaint that is made to it or the chief officer which is of a description determined by the Director General;

(d) every conduct matter recorded by it or the chief officer under paragraph 10(4), (4B) or (4C), 11(3A), (3C) or (3D) or 13A(4) of Schedule 3 (recording of conduct matters)(**a**);

(e) every DSI matter recorded by it or the chief officer under paragraph 14A(1) or 14CA(4) of Schedule 3 (duties to record DSI matters)(**b**);

(f) every exercise of a power or performance of a duty under Part 2 of the 2002 Act by it or the chief officer.

Register to be kept by the Director General

45.—(1) The Director General must maintain a register of all information provided to the Director General by a local policing body or chief officer under Part 2 of the 2002 Act.

(2) Subject to paragraph (3), the Director General may publish or otherwise disclose to any person any information held on the register where, in the opinion of the Director General, that is necessary for or conducive to the purpose of—

(a) learning lessons from the handling of complaints, conduct matters or DSI matters;

(b) demonstrating the thoroughness and effectiveness of the handling of complaints or such matters;

(c) raising public awareness of the complaints system, or

(d) improving the complaints system.

(3) Information may not be published or disclosed in circumstances where, in the opinion of the Director General, the non-disclosure of the information is necessary for a purpose mentioned in regulation 35(3) (exceptions to duties to keep the complainant and interested person informed).

Delegation of exercise or performance of powers and duties by chief officers

46.—(1) Subject to the following provisions of this regulation, a chief officer may delegate the exercise or performance of all or any of the powers and duties conferred or imposed on the chief officer by or under Part 2 of the 2002 Act to—

(a) in the case of a complaint or conduct matter concerning the conduct of a senior officer—

(i) a senior officer, or

(ii) a police staff member who, in the opinion of the chief officer, is of at least a similar level of seniority;

(b) in any other case—

(i) a member of a police force of at least the rank of inspector, or

(ii) a police staff member who, in the opinion of the chief officer, is of at least a similar level of seniority.

(2) Subject to paragraph (3), where a complaint is being handled by a chief officer—

(**a**) Paragraphs 10(4), (4B) and (4C) and 11(3A), (3C) and (3D) were substituted by paragraphs 1, 11 and 12 of Schedule 14 to the Police Reform and Social Responsibility Act 2011 and amended by paragraphs 15 and 56 of Schedule 9 to the Policing and Crime Act 2017; paragraph 13A(4) was inserted by section 17(1) and (6) of the Policing and Crime Act 2017.

(**b**) Paragraph 14A(1) was inserted by paragraphs 1, 11 and 12 of Schedule 12 to the Serious Organised Crime and Police Act 2005 and amended by paragraphs 277 and 302 of Schedule 16 to the Police Reform and Social Responsibility Act 2011; paragraph 14CA(4) was inserted by section 17(1) and (9) of the Policing and Crime Act 2017.

(a) in accordance with paragraph 6(2A) of Schedule 3 (duty of appropriate authority to handle complaints in a reasonable and proportionate manner)(**a**) otherwise than by the chief officer making arrangements for the complaint to be investigated by the chief officer on the chief officer's own behalf, or

(b) otherwise than in accordance with Schedule 3,

the chief officer may delegate the exercise or performance of all or any of the powers and duties conferred or imposed on the chief officer by or under Part 2 of the 2002 Act to any person serving with the police.

(3) A chief officer must not delegate the exercise or performance of any power or duty under this regulation to a person if to do so could reasonably give rise to a concern as to whether the person could act impartially.

Definition of "disciplinary proceedings" for the purposes of Part 2 of the 2002 Act in relation to police staff members and designated police volunteers

47.—(1) In relation to a person serving with the police who is not a member of a police force or a special constable, for the purposes of Part 2 of the 2002 Act "disciplinary proceedings" means(**b**)—

(a) any proceedings or management process during which the conduct (as opposed to the performance) of such a person is considered in order to determine whether a sanction or punitive measure is to be imposed against that person in relation to that conduct, and

(b) for the purposes of the provisions mentioned in paragraph (2) only, any proceedings or management process during which the performance of such a person is considered in order to determine whether it is unsatisfactory and whether, as a result, any action is to be taken in relation to it.

(2) The provisions are—

(a) section 22(8) of the 2002 Act (guidance issued by the Director General);

(b) the following provisions of Schedule 3—

(i) paragraph 2(6B) (complaints which must be handled in accordance with Schedule 3)(**c**);

(ii) paragraph 6(2E) (handling of complaints other than by way of an investigation: admissibility of statements in proceedings)(**d**);

(iii) paragraph 6A(10) (reviews relating to complaints dealt with other than by investigation: references to outcome of a complaint)(**e**);

(iv) paragraph 19ZG(2) (retention of items by the Director General)(**f**);

(v) paragraph 19ZH(6) (restrictions on access to items retained by the Director General)(**g**);

(vi) paragraph 20(1) (restrictions on proceedings pending the conclusion of an investigation)(**h**);

(**a**) Paragraph 6(2A) was inserted by paragraphs 5 and 6 of Schedule 5 to the Policing and Crime Act 2017.
(**b**) See paragraph (b) of the definition of "disciplinary proceedings" in section 29(1) of the 2002 Act.
(**c**) Paragraph 2(6B) was inserted by paragraphs 1 and 2 of Schedule 5 to the Policing and Crime Act 2017.
(**d**) Paragraph 6(2E) was inserted by paragraphs 5 and 6 of Schedule 5 to the Policing and Crime Act 2017.
(**e**) Paragraph 6A(10) was inserted by paragraphs 29 and 31 of Schedule 5 to the Policing and Crime Act 2017.
(**f**) Paragraph 19ZG was inserted by section 20(1) of the Policing and Crime Act 2017. Sub-paragraph (2) was amended by paragraphs 15 and 56 of Schedule 9 to that Act.
(**g**) Paragraph 19ZH was inserted by section 20(1) of the Policing and Crime Act 2017. Sub-paragraph (6) was amended by paragraphs 15 and 56 of Schedule 9 to that Act.
(**h**) Paragraph 20(1) was amended by paragraphs 1 and 2 of Schedule 11, and paragraphs 1, 11 and 18 of Schedule 12, to the Serious Organised Crime and Police Act 2005 and paragraph 47 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the Policing and Crime Act 2017.

(vii) paragraph 22(10) (purposes for which appropriate authority may request items from person investigating)(**a**);

(viii) paragraph 23(5A) (duties of Director General on receipt or completion of report on investigation)(**b**);

(ix) paragraph 24(6B) (duties of appropriate authority on receipt of report on investigation)(**c**);

(x) paragraph 25(4C), (4E) and (14) (reviews with respect to an investigation: powers of relevant review body and references to outcome of a complaint)(**d**);

(xi) paragraph 27(2) (duties of appropriate authority following memorandum under paragraph 24C)(**e**).

Local policing body functions in relation to complaints: giving of section 13A notices

48.—(1) A local policing body may only give a section 13A notice—

(a) where it has taken the steps mentioned in paragraphs (2), (3) and (4), and

(b) after the end of the period of 28 days starting with the day on which the step mentioned in paragraph (4) is taken (or retaken, in a case where paragraph (6)(b) applies).

(2) The first step is to consult, in such manner as the local policing body thinks appropriate, each of the following about the proposed section 13A notice—

(a) the relevant chief officer;

(b) all persons appearing to the local policing body to represent persons serving with the police who may be affected by the proposed section 13A notice.

(3) The second step is to publish, in such manner as the local policing body thinks appropriate, its response to the representations made or views expressed in response to the consultation.

(4) The third step is, having taken the steps mentioned in paragraphs (2) and (3), to notify the relevant chief officer—

(a) that it intends to give a section 13A notice;

(b) of the date on which it intends to give the notice, and

(c) whether the notice will relate to the functions conferred on the chief officer by the provisions specified in subsection (2) or subsections (2) and (3) of section 13A of the 2002 Act (local policing bodies: functions in relation to complaints)(**f**).

(5) Any steps taken by a local policing body before the day on which these Regulations come into force are to be taken into account for the purposes of paragraph (1) (and accordingly it does not matter for those purposes whether any of the period mentioned in paragraph (1)(b) falls before that day).

(6) Where a local policing body, having taken the step mentioned in paragraph (4), decides—

(a) not to give a section 13A notice, it must notify the relevant chief officer of that decision promptly;

(b) to give a section 13A notice on a date other than that notified in accordance with paragraph (4) or relating to functions other than those notified in accordance with that paragraph, it must retake the step mentioned in that paragraph.

(**a**) Paragraph 22(10) was inserted by paragraphs 1, 3 and 12 of Schedule 23 to the Criminal Justice and Immigration Act 2008.

(**b**) Paragraph 23(5A) was inserted by paragraphs 9 and 26 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(**c**) Paragraph 24(6B) was inserted by section 15(1) and (10)(a) of the Policing and Crime Act 2017.

(**d**) Paragraph 25(4C), (4E) and (14) was inserted by paragraphs 29 and 34 of Schedule 5 to the Policing and Crime Act 2017. Sub-paragraphs (4C) and (4E) were amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(**e**) Paragraph 27(2) was amended by section 15(1) and (10)(b) of the Policing and Crime Act 2017.

(**f**) Section 13A was inserted by section 13 of the Policing and Crime Act 2017.

(7) In this regulation and regulation 49 (local policing body functions in relation to complaints: withdrawal of section 13A notices), "relevant chief officer" means the chief officer of the police force that the local policing body concerned maintains.

Local policing body functions in relation to complaints: withdrawal of section 13A notices

49.—(1) A local policing body may only withdraw a section 13A notice—

(a) where it has taken the steps mentioned in paragraphs (2), (3) and (4), and

(b) after the end of the period of 28 days starting with the day on which the step mentioned in paragraph (4) is taken (or retaken, in a case where paragraph (5)(b) applies).

(2) The first step is to consult, in such manner as the local policing body thinks appropriate, each of the following about the proposed withdrawal—

(a) the relevant chief officer;

(b) all persons appearing to the local policing body to represent persons serving with the police who may be affected by the proposed withdrawal.

(3) The second step is to publish, in such manner as the local policing body thinks appropriate, its response to the representations made or views expressed in response to the consultation.

(4) The third step is, having taken the steps mentioned in paragraphs (2) and (3), to notify the relevant chief officer—

(a) that it intends to withdraw the section 13A notice, and

(b) of the date on which it intends to withdraw the notice.

(5) Where a local policing body, having taken the step mentioned in paragraph (4), decides—

(a) not to withdraw the section 13A notice, it must notify the chief officer of that decision promptly;

(b) to withdraw the section 13A notice on a date other than that notified in accordance with paragraph (4), it must retake the step mentioned in that paragraph.

Delegation of exercise or performance of powers and duties by local policing bodies

50.—(1) Subject to the following provisions of this regulation, a local policing body may delegate the exercise or performance of all or any of the powers and duties conferred or imposed on the local policing body by or under Part 2 of the 2002 Act (including powers and duties that are acquired by virtue of giving a section 13A notice) to any person.

(2) A local policing body may not delegate any power or duty under paragraph (1) to—

(a) a constable (whether or not in England and Wales);

(b) another local policing body;

(c) any other person or body which maintains a police force;

(d) the Mayor of London;

(e) a member of the staff of a person falling within any of sub-paragraphs (a) to (d), or

(f) any person if to do so could reasonably give rise to a concern as to whether the person could act impartially.

(3) But paragraph (2)(e) does not prevent a local policing body delegating the exercise or performance of a power or duty acquired by virtue of a section 13A notice to a person for so long as that person is under the direction and control of the local policing body.

Manner and time limit of notifications under these Regulations

51.—(1) Any notification to be given under these Regulations must—

(a) unless otherwise specified in these Regulations or determined in guidance issued by the Director General, be given in writing;

(b) unless otherwise specified in these Regulations, be made within such period as the Director General may determine in guidance.

(2) No time limit mentioned in these Regulations or determined by the Director General applies in any case where exceptional circumstances prevent that time limit being complied with.

Application of Part 2 of the 2002 Act etc. to old cases

52.—(1) Part 2 of the 2002 Act and any provision made under it (including these Regulations) apply to a matter in relation to which the Director General has made a section 28A direction with the following modifications—

(a) the section 28A direction is to be treated as if it were a decision of the Director General to treat the matter as having been referred to the Director General under paragraph 4A(1), 13A(1) or 14CA(1) of Schedule 3 (power of the Director General to treat complaint, conduct matter and DSI matter as having been referred)(**a**) and the appropriate authority must record the matter under paragraph 4A(4), 13A(4) or 14CA(4) of Schedule 3, and

(b) any requirement for the Director General or appropriate authority to determine whether disciplinary proceedings or performance proceedings should be brought against a relevant person is to be treated as if it were omitted.

(2) In this regulation—

"relevant person" means a person—

(i) in respect of whose conduct the Director General has made a section 28A direction, and

(ii) who has previously been the subject of relevant proceedings in connection with that conduct;

"relevant proceedings" means any proceedings or management process during which—

(i) the conduct of a person is considered in order to determine whether a sanction or punitive measure is to be imposed against that person in relation to that conduct;

(ii) the performance of a person is considered in order to determine whether it is unsatisfactory and whether, as a result, any action is to be taken in relation to it.

Amendment of policing protocol

53.—(1) The policing protocol set out as a Schedule to the Policing Protocol Order 2011(**b**) is amended as follows.

(2) For paragraph 17(n) (police and crime commissioners etc: responsibilities in relation to complaints) substitute—

"(n) monitor all complaints against the force, its officers and staff, have responsibility for complaints against the Chief Constable and exercise other functions in relation to complaints under Part 2 of the Police Reform Act 2002 (including functions acquired in accordance with any notice given by the PCC to the Chief Constable under section 13A of that Act).".

(3) In paragraph 23(k) (chief constables: responsibilities in relation to complaints), after "Chief Constable" for ", and" substitute "and subject to any notice given to the Chief Constable by the PCC under section 13A of the Police Reform Act 2002,".

(4) Paragraph 38 (ability of the Director General to issue guidance on the meaning of "direction and control") is omitted.

(**a**) Paragraph 14CA(1) was inserted by section 17(1) and (9) of the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(**b**) S.I. 2011/2744, amended by S.I. 2017/1250.

Amendment of the Police (Complaints and Conduct) Regulations 2013

54.—(1) The Police (Complaints and Conduct) Regulations 2013(**a**) are amended as follows.

(2) In regulation 1 (citation, commencement, interpretation and extent), the definition of "relevant indication" is omitted.

(3) For regulation 2(11) (interviews of witnesses during investigation) substitute—

> "(11) Nothing in this regulation shall apply, in the case of an investigation to which paragraph 19A of Schedule 3 to the 2002 Act (special procedure where investigation relates to police officer or special constable) applies, to an interview of a serving officer who is the person concerned in relation to the investigation (within the meaning of that paragraph).".

Amendment of the Public Interest Disclosure (Prescribed Persons) Order 2014

55.—(1) The Public Interest Disclosure (Prescribed Persons) Order 2014(**b**) is amended as follows.

(2) In the first column of the Schedule, for "Independent Police Complaints Commission" substitute "The Director General of the Independent Office for Police Conduct".

(3) In the second column of the Schedule, for "Independent Police Complaints Commission" substitute "Director General of the Independent Office for Police Conduct".

Kit Malthouse
Minister of State
Home Office

6th January 2020

SCHEDULE 1

Preamble

Provisions of the 2002 Act conferring powers under which these Regulations are made

Provision of the 2002 Act	*Relevant amendments*
Section 13A(6) and (7)	Inserted by section 13 of the Policing and Crime Act 2017 ("the 2017 Act")
Section 13B(12)	Inserted by section 18 of, and amended by paragraphs 15 and 20 of Schedule 9 to, the 2017 Act
Section 20(4)(d), (5) and (8)	Subsection (4) was substituted by section 15(1) and (3) of the 2017 Act; subsection (5) was amended by paragraphs 15 and 26 of Schedule 9 to that Act; subsection (8) was amended by paragraphs 277 and 286 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 ("the 2011 Act") and paragraphs 15 and 26 of Schedule 9 to the 2017 Act
Section 21(9)(c), (10), (11) and (12)	Subsection (9) was substituted by section 15(1) and (7) of the 2017 Act; subsection (10) was amended by paragraphs 1 and 7 of Schedule 12 to the Serious Organised Crime and Police Act ("the 2005 Act") and paragraphs 15 and 27 of Schedule 9 to the 2017 Act
Section 23(1) and (2)	Subsection (2) was amended by paragraphs 1 and 9 of Schedule 12 to the 2005 Act, paragraphs 1 and 2 of Schedule 23 to the Criminal Justice and Immigration Act 2008, paragraphs 277 and 288 of Schedule 16 to the 2011 Act and section 23(1) of, and

(**a**) S.I. 2013/281, amended by S.I. 2017/1250.
(**b**) S.I. 2014/2418, to which there are amendments not relevant to these Regulations.

	paragraphs 1 and 5 of Schedule 4, paragraph 47 of Schedule 5 and paragraphs 15 and 31 of Schedule 9 to, the 2017 Act
Section 28A(10)	Inserted by section 2(1) and (2) of the Police (Complaints and Conduct) Act 2012 and amended by paragraphs 15 and 39 of Schedule 9 to the 2017 Act
Section 29(1)(**a**)	
Section 105(4) and (5)	Subsection (5) was amended by paragraphs 15 and 54 of Schedule 9 to the 2017 Act
Paragraph 4(1)(b) and (4) of Schedule 3	Paragraph 4(4) was amended by paragraphs 15 and 56 of Schedule 9 to the 2017 Act
Paragraph 5(1A) to (1C) of Schedule 3	Inserted by paragraphs 9 and 10 of Schedule 5, and amended by paragraphs 15 and 56 of Schedule 9, to the 2017 Act
Paragraph 6(2D) of Schedule 3	Inserted by paragraphs 5 and 6 of Schedule 5 to the 2017 Act
Paragraph 6A(7) of Schedule 3	Inserted by paragraphs 29 and 31 of Schedule 5 to the 2017 Act
Paragraph 10(4A) of Schedule 3	Substituted by paragraphs 1 and 11 of Schedule 14 to the 2011 Act
Paragraph 11(2)(c) and (3B) of Schedule 3	Paragraph 11(3B) was substituted by paragraphs 1 and 12 of Schedule 14 to the 2011 Act
Paragraph 13(1)(b) and (4) of Schedule 3	Paragraph 13(4) was amended by paragraphs 15 and 56 of Schedule 9 to the 2017 Act
Paragraph 14(1A) and (1C) of Schedule 3	Inserted by paragraphs 9 and 13 of Schedule 5, and amended by paragraphs 15 and 56 of Schedule 9, to the 2017 Act
Paragraph 14C(2) of Schedule 3	Inserted by paragraphs 1, 11 and 12 of Schedule 12 to the 2005 Act
Paragraph 14D(1A) and (1C) of Schedule 3	Inserted by paragraphs 9 and 14 of Schedule 5, and amended by paragraphs 15 and 56 of Schedule 9, to the 2017 Act
Paragraph 15(10) and (11) of Schedule 3	Inserted by paragraphs 9 and 15 of Schedule 5, and amended by paragraphs 15 and 56 of Schedule 9, to the 2017 Act
Paragraph 19A(5) and (6) of Schedule 3	Substituted by paragraphs 9 and 21 of Schedule 5 to the 2017 Act
Paragraph 19F(2) and (3) of Schedule 3	Inserted by section 1(1) and (2) of the Police (Complaints and Conduct) Act 2012 and amended by paragraphs 9 and 22 of Schedule 5 to the 2017 Act
Paragraph 20A(3) and (4)(a) and (b) of Schedule 3	Substituted by paragraphs 9 and 23 of Schedule 5, and amended by paragraphs 15 and 56 of Schedule 9, to the 2017 Act
Paragraph 22(7) of Schedule 3	Inserted by paragraphs 1, 3 and 12 of Schedule 23 to the Criminal Justice and Immigration Act 2008 and amended by paragraph 47 of Schedule 5 to the 2017 Act
Paragraph 25(4H) and (13) of Schedule 3	Paragraph 25(4H) was inserted by paragraphs 29 and 34 of Schedule 5 to the 2017 Act; paragraph 25(13) was amended by paragraphs 29 and 34 of Schedule 5 to the 2017 Act
Paragraph 26(5B) and (5C) of Schedule 3	Substituted by paragraphs 29 and 37 of Schedule 5, and amended by paragraphs 15 and 56 of Schedule 9, to the 2017 Act
Paragraph 28ZA(1), (4) and (5)(a) and (c) of Schedule 3	Inserted by paragraph 45 of Schedule 5, and amended by paragraphs 15 and 56 of Schedule 9, to the 2017 Act
Paragraph 28A(4) of Schedule 3	Inserted by section 139 of the Anti-social Behaviour, Crime and Policing Act 2014 and amended by paragraph 47 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the 2017 Act

(**a**) The relevant power is in paragraph (b) of the definition of "disciplinary proceedings".

Paragraph 30(1)(a) of Schedule 3	Inserted by paragraphs 1, 15 and 22 of Schedule 14 to the 2011 Act and amended by paragraphs 29 and 39 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the 2017 Act

SCHEDULE 2

Regulation 42(1)(b)

Modifications to Part 2 of the 2002 Act and to these Regulations

PART 1

Modifications to Part 2 of the 2002 Act

Modification to section 29 (interpretation of Part 2)

1. Section 29(1)(**a**) is to be read as if, in the definition of "disciplinary proceedings", for "50 or 51" there were substituted "50(3A) to (3G) or 51(2B) to (2H)".

Modifications to Part 3 of Schedule 3 (investigations and subsequent proceedings)

2.—(1) Part 3 of Schedule 3 is modified as follows.

(2) Paragraph 20A (accelerated procedure in special cases)(**b**) is to be read as if—

(a) in sub-paragraph (1), at the beginning there were inserted "Except in the case of a Condition C person,", and

(b) in sub-paragraph (2)(b), for the words from "to cease" to the end there were substituted "to be included in the list referred to in section 88B(2) of the Police Act 1996 (police barred list) without delay.".

(3) Paragraph 22(10)(a) (purposes for which appropriate authority may request items from person investigating)(**c**) is to be read as if for "50(3) or 51(2A)" there were substituted "50 or 51".

(4) Paragraph 23(5A) (action by the Director General in relation to an investigation report)(**d**) is to be read as if—

(a) in paragraph (a)(i)—

(i) for "person" there were substituted "member of a police force or special constable", and

(ii) "misconduct or", in the first place it appears, were omitted;

(b) for paragraph (a)(ii) there were substituted—

"(ii) whether, if there is no such case to answer, there nevertheless may have been a breach of the Standards of Professional Behaviour that would have justified the bringing of disciplinary proceedings had the person not ceased to be a member of a police force or a special constable,";

(c) in paragraph (b)—

(i) at the beginning, there were inserted "except in the case of a Condition C person,", and

(**a**) There are amendments to section 29(1) but none is relevant.

(**b**) Paragraph 20A was substituted by paragraphs 9 and 23 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(**c**) Paragraph 22 was substituted by paragraphs 1, 11 and 21 of Schedule 12 to the Serious Organised Crime and Police Act 2005. There are other amendments to paragraph 22 but none is relevant.

(**d**) Paragraph 23(5A) was inserted by paragraphs 9 and 26 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(ii) in sub-paragraph (ii)—

(aa) for "person" there were substituted "member of a police force or special constable", and

(bb) "and, if so, what form the disciplinary proceedings should take" were omitted;

(d) after paragraph (b) there were inserted—

"(ba) in the case of a Condition C person—

(i) having considered the views (if any) of the appropriate authority, make a determination as to the matters described in paragraph (a)(i) and (ii), and

(ii) where the Director General has determined that the person has a case to answer in respect of gross misconduct, make a Condition C special determination in respect of that person,";

(e) in paragraph (c), after "paragraph (b)" there were inserted "or (ba), as the case may be,";

(f) in paragraphs (d) and (f), after "paragraph (b)" there were inserted "or determinations under paragraph (ba), as the case may be,", and

(g) in paragraph (e) —

(i) "of a form specified in the determination" were omitted, and

(ii) for "person" there were substituted "member of a police force or special constable or, in the case of a Condition C person, that the taking of such proceedings would be reasonable and proportionate".

(5) Paragraph 24(6) (action by the appropriate authority in response to an investigation report) is to be read as if—

(a) in paragraph (a)—

(i) at the beginning, there were inserted "except in the case of a Condition C person,";

(ii) in sub-paragraph (i), "misconduct or", in the first place it appears, were omitted, and

(iii) for sub-paragraph (ia), there were substituted—

"(ia) where the appropriate authority determines that there is no such case to answer, whether there nevertheless may have been a breach of the Standards of Professional Behaviour that would have justified the bringing of disciplinary proceedings had the person not ceased to be a member of a police force or a special constable,";

(b) after paragraph (a), there were inserted—

"(aza) in the case of a Condition C person, determine—

(i) whether there may have been a breach of the Standards of Professional Behaviour that would have justified the bringing of disciplinary proceedings had the person not ceased to be a member of a police force or a special constable, and

(ii) where the appropriate authority determines that there may have been such a breach, whether the breach is so serious that, had the person not ceased to be a member of a police force or a special constable, it would have justified dismissal,", and

(c) in paragraph (aa), after "paragraph (a)" there were inserted "or (aza), as the case may be,".

(6) Paragraph 25 (reviews with respect to an investigation) is to be read as if—

(a) in each of sub-paragraphs (4C)(c) and (4E)(c)—

(i) after "police", there were inserted "other than a Condition C person";

(ii) "misconduct or", in the first place it appears, were omitted;

(iii) sub-paragraph (ii) were omitted;

(iv) in sub-paragraph (iii), "of the form specified in the recommendation" were omitted, and

(v) in each of sub-paragraphs (iii) and (iv), ", efficiency or effectiveness" were omitted, and

(b) after each of sub-paragraphs (4C)(c) and (4E)(c) there were inserted—

"(ca) in the case of a Condition C person, make a determination (in place of the determination of the appropriate authority) as to—

(i) whether there may have been a breach of the Standards of Professional Behaviour that would have justified the bringing of disciplinary proceedings had the person not ceased to be a member of a police force or a special constable, and

(ii) if so, whether the breach is so serious that, had the person not ceased to be a member of a police force or a special constable, it would have justified dismissal;".

(7) Paragraph 29 (minor definitions)(**a**) is to be read as if in the appropriate places there were inserted—

""Condition C person" means a person in relation to whom regulation 4(2)(a) and (5)(a) and (b) of the Police (Conduct) Regulations 2020 is satisfied;", and

""Condition C special determination" means a determination in accordance with Part 1A of the Police (Conduct) Regulations 2020 as to whether the taking of disciplinary proceedings against a Condition C person in respect of alleged gross misconduct would be reasonable and proportionate having regard to—

(a) the seriousness of the alleged gross misconduct;

(b) the impact of the allegation on public confidence in the police, and

(c) the public interest;".

PART 2

Modifications to these Regulations

Modification to regulation 1 (citation, commencement, interpretation and application)

3. Regulation 1(2) is to be read as if—

(a) in the appropriate places there were inserted—

""Condition C person" means a person in relation to whom regulation 4(2)(a) and (5)(a) and (b) of the Conduct Regulations is satisfied;";

(b) the definition of "disciplinary action" were omitted;

(c) in paragraph (a) of the definition of "disciplinary proceedings", for "any proceedings" to the end there were substituted "any misconduct hearing or accelerated misconduct hearing under the Conduct Regulations,", and

(d) in the definition of "severity assessment", for paragraphs (a) and (b) there were substituted "whether the conduct, if proved, would amount to gross misconduct;".

Modification to regulation 16 (special procedure: severity assessment)

4. Regulation 16 is to be read as if—

(**a**) Paragraph 29 was inserted by paragraphs 1, 3 and 19 of Schedule 23 to the Criminal Justice and Immigration Act 2008. There is an amendment to that paragraph not relevant to these Regulations.

(a) in paragraph (1), for "22 (special procedure)" there were substituted "21A (special procedure: notice of enquiry)", and

(b) in paragraph (2)(a), for paragraphs (i) and (ii), there were substituted "whether the conduct of the person concerned, if proved, would amount to gross misconduct;".

Modification to regulation 17 (special procedure: notification of severity assessment etc.)

5. Regulation 17(1) is to be read as if—

(a) for sub-paragraph (d), there were substituted—

"(d) that if the allegation of gross misconduct is proved, the person concerned may be subject to a finding that the person would have been dismissed if the person had not ceased to be a member of a police force or a special constable;

(da) that if the person concerned is subject to such a finding, information including the person's full name and a description of the conduct which would have led to the person's dismissal will be added to the list referred to in section 88B(2) of the Police Act 1996 (police barred list) and may be subject to publication for a period of up to five years;";

(b) after sub-paragraph (g), "and" were omitted and there were inserted—

"(ga) that it may harm the person's case if the person fails to attend an interview of which the person has been given notice under regulation 21(6)(a) (special procedure: interview of the person concerned), and", and

(c) in sub-paragraph (h), after "20", there were inserted ", regulation 21A (special procedure: notice of enquiry)".

Modification to regulation 18 (special procedure: police friend)

6. Regulation 18(2) is to be read as if for sub-paragraph (d) there were substituted—

"(d) any other person nominated by the person concerned and approved by the chief officer of the force in which the person is serving,".

Modification to regulation 21 (special procedure: interview of the person concerned)

7. Regulation 21 is to be read as if—

(a) in paragraph (1), at the beginning, there were inserted "Subject to regulation 21A (special procedure: notice of enquiry),", and

(b) in paragraph (5), for the words from "must" to the end there were substituted "must be reasonable.".

Modification: insertion of regulation 21A

8. These Regulations are to be read as if after regulation 21 there were inserted—

"**Special procedure: notice of enquiry**

21A.—(1) Where in the case of an investigation under—

(a) paragraph 18 of Schedule 3 (investigations directed by the Director General), or

(b) paragraph 19 of Schedule 3 (investigations by the Director General) other than by the Director General acting personally,

the Director General indicates that, having regard to the circumstances of the person concerned, it would be unreasonable to require the person to attend an interview and that the person should be given a written notice of enquiry, the person investigating must cause the person to be given a written notice of enquiry.

(2) Where in the case of an investigation under —

(a) paragraph 18 of Schedule 3, or

(b) paragraph 19 of Schedule 3 other than by the Director General acting personally,

the person investigating forms the opinion that, having regard to the circumstances of the person concerned, it would be unreasonable to require the person to attend an interview, the person investigating must notify the Director General of that opinion.

(3) Where in any other case the person investigating is satisfied that, having regard to the circumstances of the person concerned, it would be unreasonable to require the person to attend an interview, the person investigating may cause the person to be given a written notice of enquiry.

(4) A notice of enquiry given under this regulation must—

(a) state any question the person investigating or, in the case of an investigation under paragraph 18 of Schedule 3 or paragraph 19 of Schedule 3 other than by the Director General acting personally, the Director General, wishes to ask the person concerned, and

(b) request a response to any such question from the person concerned within a specified period.

(5) The person investigating must make a written record of any notice of enquiry and response received under this regulation.".

Modification: omission of regulation 22 (special procedure: duty to provide information to appropriate authority)

9. These Regulations are to be read as if regulation 22 were omitted.

Modification to regulation 27 (report on investigation)

10. Regulation 27 is to be read as if—

(a) in paragraph (1)(c), for "paragraph (3)(a), (b) and (e)" there were substituted "paragraph (3)(a) and (c) or (3A), as the case may be", and

(b) for paragraph (3) there were substituted—

"(3) Other than in a case to which paragraph (3A) applies, the matters are—

(a) whether any person to whose conduct the investigation related has a case to answer in respect of gross misconduct or has no case to answer;

(b) whether or not disciplinary proceedings should be brought against any such person;

(c) whether, if the opinion is that there is no such case to answer, there nevertheless may have been a breach of the Standards of Professional Behaviour that would have justified the bringing of disciplinary proceedings had the person not ceased to be a member of a police force or a special constable.

(3A) Where the person to whose conduct the investigation related is a Condition C person and the investigation was carried out under paragraph 16 of Schedule 3 (investigations by the appropriate authority on its own behalf), the matters are—

(a) whether there may have been a breach of the Standards of Professional Behaviour that would have justified the bringing of disciplinary proceedings had the person not ceased to be a member of a police force or a special constable;

(b) whether, if the opinion is that there may have been such a breach, the breach is so serious that, had the person not ceased to be a member of a police force or a special constable, it would have justified dismissal.".

Modification to regulation 28 (provision of copy of report on investigation etc. to person to whose conduct the investigation related)

11. Regulation 28(1) is to be read as if—

(a) in sub-paragraph (a), for the words from "neither" to the end there were substituted "a person to whose conduct the investigation related has no case to answer in respect of gross misconduct,", and

(b) in sub-paragraph (b), for the words from "it" to the end there were substituted "such a person has no case to answer in respect of gross misconduct,".

Modification to regulation 30 (recommendation by the Director General or a local policing body)

12. Regulation 30(1) is to be read as if sub-paragraph (c) were omitted.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision regarding the handling, including the investigation, of complaints about, and related matters concerning, the police. They revoke and replace the Police (Complaints and Misconduct) Regulations 2012 (S.I. 2012/1204) and various instruments which amend or modify those Regulations. This is in part to reflect changes to the provisions of the Police Reform Act 2002 (2002 c. 30) ("the 2002 Act") concerning the handling of complaints, conduct matters and death and serious injury matters ("DSI matters") made by Part 2 of the Policing and Crime Act 2017 (2017 c. 3).

Part 1 contains preliminary provisions, including interpretation provisions.

Part 2 makes provision concerning the initial handling of complaints, conduct matters and DSI matters. Regulation 3 requires a local policing body or chief officer when recording a complaint to provide the complainant with a copy of the record made of the complaint and the person complained against with a copy of the complaint (subject to specified exceptions). Regulations 4 and 5 specify the types of complaint which must be referred to the Director General of the Independent Office of Police Conduct ("the Director General") and which must be investigated. Regulation 7 makes provision concerning the recording and reference of conduct matters. Regulations 8 and 10 require that conduct matters and DSI matters which relate to the conduct of a chief officer or the Deputy Commissioner of Police of the Metropolis be investigated.

Part 3 makes provision concerning the investigation of complaints, conduct matters and DSI matters and subsequent proceedings. Regulation 12 prohibits certain people from being appointed to investigate complaints and matters. Regulation 13 requires the person or body in charge of an investigation to provide an update on the progress of an investigation which has been going on for longer than a year (and to provide further updates every six months thereafter). Regulation 14 allows for the combining and splitting of investigations and regulation 15 makes provision regarding the change in form of an investigation. Regulations 16 to 22 set out a special procedure for investigations to which paragraph 19A of Schedule 3 to the 2002 Act applies. This includes where it appears to the person investigating a complaint that there is an indication that the officer concerned may have committed a criminal offence or behaved in a way which would justify the bringing of disciplinary proceedings. The special procedure requires, subject to exceptions, that the person investigating give the officer concerned a notice detailing the alleged conduct and the officer's rights (regulation 17) and consider any representations the officer makes (regulation 20). Regulations 24 to 26 set out an accelerated procedure for cases to which paragraph 20A of Schedule 3 to the 2002 Act applies. This is for cases where it may be in the public interest for the officer concerned to be dismissed without delay. Regulations 27 and 28 make provision concerning investigation reports. Regulations 29 and 32 concern reviews under paragraphs 6A and 25 of Schedule 3 to the 2002 Act; regulation 29 stipulating the time period in which an application for a review must be made, and what it must contain, and regulation 32 setting out the cases in

which the Director General is to hear a review. Regulations 30 and 31 make provision regarding recommendations by local policing bodies and the Director General following reviews and investigations.

Part 4 makes provision regarding keeping the complainant and interested persons (within the meaning of section 21 of the 2002 Act) informed. Sections 20 and 21 of the 2002 Act impose duties on the Director General, chief officers and local policing bodies in this respect. Regulation 33 specifies the matters of which the complainant and interested persons must be kept informed. Regulation 34 specifies how the duties in sections 20 and 21 are to be discharged and regulation 35 sets out the exceptions to those duties.

Part 5 contains general provisions. Regulations 38 and 39 make provision regarding withdrawn complaints, including setting out when they must be treated as conduct matters. Regulations 40 and 41 deal with the suspension and resumption of proceedings under the 2002 Act and these Regulations. Regulations 42 (which introduces Schedule 2) and 43 provide for the application of the 2002 Act and these Regulations, with modifications, to cases where the complaint or conduct matter relates to the conduct of a person who is no longer serving with the police or whose identity is not known. Regulations 46 and 50 make provision regarding the delegation of the exercise and performance of powers and duties by chief officers and local policing bodies. Regulations 48 and 49 make provision concerning the giving and withdrawal of notices under section 13A of the 2002 Act by local policing bodies (which allows a local policing body to give notice that it will take on specified functions of the relevant chief officer in relation to complaints). Regulations 53 to 55 amend the Policing Protocol Order 2011 (S.I. 2011/2744), the Police (Complaints and Conduct) Regulations 2013 (S.I. 2013/281) and the Public Interest Disclosure (Prescribed Persons) Order 2014 (S.I. 2014/2418). These changes are consequential on the changes made to the 2002 Act by the Policing and Crime Act 2017.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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