

POLICING AND CRIME BILL: KEELING SCHEDULES

This document shows provisions in Part 2 of the Police Reform Act 2002 (Complaints and Misconduct) as they would be amended by the Bill. It is intended to assist the consideration of these provisions in the Bill and should not be taken a definitive statement of the law as it would have effect on the enactment of the Bill.

Deletions are shown ~~struck through~~ and additions in *italics*.

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SECTION 9 OF THE POLICE REFORM ACT 2002

Section 9: The Independent Police Complaints Commission The Office for Police Conduct

~~(1) There shall be a body corporate to be known as the Independent Police Complaints Commission (in this Part referred to as “the Commission”).~~

(1) The body corporate previously known as the Independent Police Complaints Commission—

- (a) is to continue to exist, and*
- (b) is to be known instead as the Office for Police Conduct.*

~~(2) The Commission shall consist of—~~

- ~~(a) a chairman appointed by Her Majesty; and~~
- ~~(b) not less than five other members appointed by the Secretary of State.~~

(2) The Office is to consist of—

- (a) a Director General appointed by Her Majesty, and*
- (b) at least six other members.*

(2A) The other members must consist of—

- (a) persons appointed as non-executive members (see paragraph 1A of Schedule 2), and*
- (b) persons appointed as employee members (see paragraph 1B of that Schedule),*

but the powers of appointment under those paragraphs must be exercised so as to secure that a majority of members of the Office (including the Director General) are non-executive members.

~~(3) A person shall not be appointed as the chairman of the Commission Director General, or as another member of the Commission, if—~~

- (a) he holds or has held office as a constable in any part of the United Kingdom;*
- (b) he is or has been under the direction and control of a chief officer or of any person holding an equivalent office in Scotland or Northern Ireland;*
- (c) he is a person in relation to whom a designation under section 39 is or has been in force;*
- (d) he is a person in relation to whom an accreditation under section 41 or 41A is or has been in force;*
- (da) he has been the chairman or a member of, or a member of the staff of, the Serious Organised Crime Agency;*
- (db) he has been—*
 - (i) the chairman or chief executive of, or*
 - (ii) another member of, or*
 - (iii) another member of the staff of,*
- the National Policing Improvement Agency;*
- (dc) the person is, or has been, a National Crime Agency officer;*

(e) he has been a member of the National Criminal Intelligence Service or the National Crime Squad; or

(f) he is or has at any time been a member of a body of constables which at the time of his membership is or was a body of constables in relation to which any procedures are or were in force by virtue of an agreement or order under—

- (i) section 26 of this Act; or
- (ii) section 78 of the 1996 Act or section 96 of the 1984 Act (which made provision corresponding to that made by section 26 of this Act).

(4) An appointment made in contravention of subsection (3) shall have no effect.

(5) ~~The Commission shall not— Neither the Office nor the Director General shall -~~

- (a) be regarded as the servant or agent of the Crown; or
- (b) enjoy any status, privilege or immunity of the Crown;

and the ~~Commission's Office's~~ property shall not be regarded as property of, or property held on behalf of, the Crown.

(6) Schedule 2 (which makes further provision in relation to the ~~Commission Office~~) shall have effect.

(7) The Police Complaints Authority shall cease to exist on such day as the Secretary of State may by order appoint.

SECTION 10 OF THE POLICE REFORM ACT 2002

Section 10: General functions of the Commission Director General

(1) The functions of the Commission Director General shall be—

- (a) to secure the maintenance by the Commission itself Director General, and by local policing bodies and chief officers, of suitable arrangements with respect to the matters mentioned in subsection (2);
- (b) to keep under review all arrangements maintained with respect to those matters;
- (c) to secure that arrangements maintained with respect to those matters comply with the requirements of the following provisions of this Part, are efficient and effective and contain and manifest an appropriate degree of independence;
- (d) to secure that public confidence is established and maintained in the existence of suitable arrangements with respect to those matters and with the operation of the arrangements that are in fact maintained with respect to those matters;
- (e) to make such recommendations, and to give such advice, for the modification of the arrangements maintained with respect to those matters, and also of police practice in relation to other matters, as appear, from the carrying out by the Commission Director General of its the Director General's other functions, to be necessary or desirable;
- (f) to such extent as it the Director General may be required to do so by regulations made by the Secretary of State, to carry out functions in relation to bodies of constables maintained otherwise than by local policing bodies which broadly correspond to those conferred on the Commission Director General in relation to police forces by the preceding paragraphs of this subsection; and
- (g) to carry out functions in relation to the National Crime Agency which correspond to those conferred on the Commission Director General in relation to police forces by paragraph (e) of this subsection.

(2) Those matters are—

- (a) the handling of complaints made about the conduct of persons serving with the police (*within the meaning given by section 12*) or other concerns raised by virtue of Part 2B (whistle-blowing);
- (b) the recording of matters from which it appears that there may have been conduct by such persons persons serving with the police which constitutes or involves the commission of a criminal offence or behaviour justifying disciplinary proceedings;
- (ba) the recording of matters from which it appears that a person has died or suffered serious injury during, or following, contact with a person serving with the police;
- (c) the manner in which any such complaints or other concerns or any such matters as are mentioned in paragraph (b) or (ba) are investigated or otherwise handled and dealt with.

(3) The Commission Director General shall also have the functions which are conferred on it the Director General by—

- (b) any agreement or order under section 26 of this Act (other bodies of constables);
- (bc) any regulations under section 26C of this Act (the National Crime Agency);
- (c) any regulations under section 39 of this Act (police powers for contracted-out staff); or
- (d) any regulations or arrangements relating to disciplinary or similar proceedings against persons serving with the police, or against members of any body of constables maintained otherwise than by a local policing body.

(3A) *The Director General also has any functions conferred on the Director General by regulations under section 29C of this Act (regulations about super-complaints).*

(3B) *The Director General also has the functions which are conferred on the Director General by Part 2B (whistle-blowing).*

- (4) It shall be the duty of the *Commission Director General* —
- (a) to exercise the powers and perform the duties conferred on *it the Director General* by the following provisions of this Part in the manner that *it the Director General* considers best calculated for the purpose of securing the proper carrying out of *its the Director General's* functions under subsections (1) and (3); and
 - (b) to secure that arrangements exist which are conducive to, and facilitate, the reporting of misconduct by persons in relation to whose conduct the *Commission Director General* has functions.

- (5) It shall also be the duty of the *Commission Director General* —
- (a) to enter into arrangements with the chief inspector of constabulary for the purpose of securing co-operation, in the carrying out of their respective functions, between the *Commission Director General* and the inspectors of constabulary; and
 - (b) to provide those inspectors with all such assistance and co-operation as may be required by those arrangements, or as otherwise appears to the *Commission Director General* to be appropriate, for facilitating the carrying out by those inspectors of their functions.

(5A) *In carrying out functions the Director General must have regard to any advice given to the Director General by the Office (see section 10A(1)(c)).*

(6) Subject to the other provisions of this Part, the *Commission Director General* may do anything which appears to *it the Director General* to be calculated to facilitate, or is incidental or conducive to, the carrying out of *its the Director General's* functions.

(7) The *Commission Office* may, in connection with the making of any recommendation or the giving of any advice to any person for the purpose of carrying out—

- (a) *its the Director General's* function under subsection (1)(e),

- (b) any corresponding function conferred on ~~it~~ *the Director General* by virtue of subsection (1)(f), or
- (c) ~~its~~ *the Director General's* function under subsection (1)(g) or (h),

impose any such charge on that person for anything done by the ~~Commission~~ *Director General* for the purposes of, or in connection with, the carrying out of that function as ~~it~~ *the Director General* thinks fit.

SECTION 11 OF THE POLICE REFORM ACT 2002

Section 11: Reports to the Secretary of State

(1) As soon as practicable after the end of each of its the Office's financial years, the Commission shall Director General and the Office must jointly make a report to the Secretary of State on the carrying out of its their functions during that year.

~~(2) The Commission shall also make such reports to the Secretary of State about matters relating generally to the carrying out of its functions as he may, from time to time, require.~~

(2) *The Secretary of State may also require reports to be made (at any time)—*

- (a) *by the Director General about the carrying out of the Director General's functions,*
- (b) *by the Office about the carrying out of the Office's functions, or*
- (c) *jointly by the Director General and the Office about the carrying out of their functions.*

(2A) *The Director General may, from time to time, make such other reports to the Secretary of State as the Director General considers appropriate for drawing the Secretary of State's attention to matters which—*

- (a) *have come to the Director General's notice, and*
- (b) *are matters which the Director General considers should be drawn to the attention of the Secretary of State by reason of their gravity or of other exceptional circumstances.*

(3) *The Commission Office may, from time to time, make such other reports to the Secretary of State as it considers appropriate for drawing his attention to matters which—*

- (a) *have come to the Commission's Office's notice; and*
- (b) *are matters that it considers should be drawn to his attention by reason of their gravity or of other exceptional circumstances.*

(3A) *The Director General and the Office may jointly make reports under subsections (2A) and (3).*

(4) *The Commission Director General shall prepare such reports containing advice and recommendations as it the Director General thinks appropriate for the purpose of carrying out—*

- (a) *its the Director General's function under subsection (1)(e) of section 10; or*
- (b) *any corresponding function conferred on it the Director General by virtue of subsection (1)(f) of that section.*

(5) *Where the Secretary of State receives any report under this section, he shall—*

- (a) *in the case of every annual report under subsection (1), and*

(b) in the case of any other report, if and to the extent that he considers it appropriate to do so,
lay a copy of the report before Parliament and cause the report to be published.

(6) The ~~Commission~~ Office shall send a copy of every annual report under subsection (1)—
(a) to every local policing body;
[paragraphs (b) and (c) repealed]
(d) to every authority that is maintaining a body of constables in relation to which any procedures are for the time being in force by virtue of any agreement or order under section 26 or by virtue of subsection (9) of that section; and
[paragraph (e) repealed]
(f) to the National Crime Agency.

(6A) *The Director General must send a copy of every report under subsection (2A)—*
(a) *to any local policing body that appears to the Director General to be concerned, and*
(b) *to the chief officer of police of any police force that appears to the Director General to be concerned.*

(7) The ~~Commission~~ Office shall send a copy of every report under subsection (3)—
(a) to any local policing body that appears to the ~~Commission~~ Office to be concerned; and
(b) to the chief officer of police of any police force that appears to it to be concerned.

(8) Where a report under subsection (2A) or (3) relates to the National Crime Agency, the ~~Commission~~ Director General or the Office (as the case may be) shall send a copy of that report to the Agency.

(9) Where a report under subsection (2A) or (3) relates to a body of constables maintained by an authority other than a local policing body, the ~~Commission~~ Director General or the Office (as the case may be) shall send a copy of that report—
(a) to that authority; and
(b) to the person having the direction and control of that body of constables.

(10) The ~~Commission~~ Director General shall send a copy of every report under subsection (4) to—
(a) the Secretary of State;
(b) every local policing body;
(c) every chief officer;
[paragraphs (d) and (e) repealed]
(f) every authority that is maintaining a body of constables in relation to which any procedures are for the time being in force by virtue of any

agreement or order under section 26 or by virtue of subsection (9) of that section;

(g) every person who has the direction and control of such a body of constables; and

[paragraph (h) repealed]

(i) the National Crime Agency.

(11) The *Commission Director General* shall send a copy of every report made or prepared by *it* the *Director General* under subsection (3) (2A) or (4) to such of the persons (in addition to those specified in the preceding subsections) who—

- (a) are referred to in the report, or
- (b) appear to the *Commission Director General* otherwise to have a particular interest in its contents,

as the *Commission Director General* thinks fit.

(12) *The Office must send a copy of every report made or prepared by it under subsection (3) to such of the persons (in addition to those specified in the preceding subsections) who—*

- (a) are referred to in the report, or
- (b) appear to the *Office* otherwise to have a particular interest in its contents,

as the *Office* thinks fit.

(13) *Where a report under subsection (2A) or (3) is prepared jointly by virtue of subsection (3A), a duty under this section to send a copy of the report to any person is met if either the Director General or the Office sends a copy to that person.*

SECTION 12 OF THE POLICE REFORM ACT 2002

Section 12: Complaints, matters and persons to which Part 2 applies

(1) In this Part references to a complaint are references (subject to the following provisions of this section) to any complaint about the conduct of a person serving with the police which is made (whether in writing or otherwise) by—

- (a) a member of the public who claims to be the person in relation to whom the conduct took place;
- (b) a member of the public not falling within paragraph (a) who claims to have been adversely affected by the conduct;
- (c) a member of the public who claims to have witnessed the conduct;
- (d) a person acting on behalf of a person falling within any of paragraphs (a) to (c).

(1) In this Part references to a complaint are references (subject to the following provisions of this section) to any expression of dissatisfaction with a police force which is expressed (whether in writing or otherwise) by or on behalf of a member of the public.

(1A) But an expression of dissatisfaction is a complaint for the purposes of this Part—

- (a) where it relates to conduct of a person serving with the police, only if the person in question is a person falling within subsection (1B);
- (b) in any other case, only if the person in question has been adversely affected by the matter about which dissatisfaction is expressed.

(1B) In relation to an expression of dissatisfaction that relates to conduct of a person serving with the police, a person falls within this subsection if the person is—

- (a) a person who claims to be the person in relation to whom the conduct took place;
- (b) a person not falling within paragraph (a) who claims to have been adversely affected by the conduct; or
- (c) a person who claims to have witnessed the conduct.

(2) In this Part “conduct matter” means (subject to the following provisions of this section, section 28A and any regulations made under it, and any regulations made by virtue of section 23(2)(d)) any matter which is not and has not been the subject of a complaint but in the case of which there is an indication (whether from the circumstances or otherwise) that a person serving with the police may have—

- (a) committed a criminal offence; or
- (b) behaved in a manner which would justify the bringing of disciplinary proceedings.

(2A) In this Part “death or serious injury matter” (or “DSI matter” for short) means (subject to section 28A and any regulations made under it) any

- circumstances (other than those which are or have been the subject of a complaint or which amount to a conduct matter)—
- (a) in or in consequence of which a person has died or has sustained serious injury; and
 - (b) in relation to which the requirements of either subsection (2B) or subsection (2C) are satisfied.

(2B) The requirements of this subsection are that at the time of the death or serious injury the person—

- (a) had been arrested by a person serving with the police and had not been released from that arrest; or
- (b) was otherwise detained in the custody of a person serving with the police.

(2C) The requirements of this subsection are that—

- (a) at or before the time of the death or serious injury the person had contact (of whatever kind, and whether direct or indirect) with a person serving with the police who was acting in the execution of his duties; and
- (b) there is an indication that the contact may have caused (whether directly or indirectly) or contributed to the death or serious injury.

(2D) In subsection (2A) the reference to a person includes a person serving with the police, but in relation to such a person “contact” in subsection (2C) does not include contact that he has whilst acting in the execution of his duties.

(3) The complaints that are complaints for the purposes of this Part by virtue of subsection (1)(b) subsection (1B)(b) do not, except in a case falling within subsection (4), include any ~~made by or on behalf of a person who where the person in question~~ claims to have been adversely affected as a consequence only of having seen or heard the conduct, or any of the alleged effects of the conduct.

(4) A case falls within this subsection if—

- (a) it was only because the person in question was physically present, or sufficiently nearby, when the conduct took place or the effects occurred that he was able to see or hear the conduct or its effects; or
- (b) the adverse effect is attributable to, or was aggravated by, the fact that the person in relation to whom the conduct took place was already known to the person claiming to have suffered the adverse effect.

(4A) *In this section, “the person in question” means the person expressing dissatisfaction or the person on whose behalf dissatisfaction is being expressed.*

(5) For the purposes of this section a person shall be taken to have witnessed conduct if, and only if—

- (a) he acquired his knowledge of that conduct in a manner which would make him a competent witness capable of giving admissible evidence of that conduct in criminal proceedings; or
- (b) he has in his possession or under his control anything which would in any such proceedings constitute admissible evidence of that conduct.

(6) ~~For the purposes of this Part a person falling within subsection (1)(a) to (c) shall not be taken to have authorised another person to act on his behalf unless—~~ *For the purposes of this Part a person is not to be taken to have authorised another person to make a complaint on his behalf unless—*

- (a) that other person is for the time being designated for the purposes of this Part by the *Commission Director General* as a person through whom complaints may be made, or he is of a description of persons so designated; or
- (b) the other person has been given, and is able to produce, the written consent to his so acting of the person on whose behalf he acts.

(7) For the purposes of this Part, a person is serving with the police if—

- (a) he is a member of a police force;
- (aa) he is a civilian employee of a police force;
- (b) he is an employee of the Common Council of the City of London who is under the direction and control of a chief officer; or
- (c) he is a special constable who is under the direction and control of a chief officer, or
- (d) *he is a person designated as a community support volunteer or a policing support volunteer under section 38.*

(8) The Secretary of State may make regulations providing that, for the purposes of this Part and of any regulations made under this Part—

- (a) a contractor,
- (b) a sub-contractor of a contractor, or
- (c) an employee of a contractor or a sub-contractor;

is to be treated as a person serving with the police.

(9) Regulations under subsection (8) may make modifications to this Part, and to any regulations made under this Part, in its application to those persons.

(10) In subsection (8) “contractor” means a person who has entered into a contract with a local policing body or a chief officer to provide services to a chief officer.

SECTION 15 OF THE POLICE REFORM ACT 2002

15 General duties of local policing bodies, chief officers and inspectors

(1) It shall be the duty of—

- (a) every local policing body maintaining a police force,
- (b) the chief officer of police of every police force, and
- (c) every inspector of constabulary carrying out any of his functions in relation to a police force,

to ensure that it or he is kept informed, in relation to that force, about all matters falling within subsection (2).

(1A) It shall be the duty of the National Crime Agency to ensure that it is kept informed, in relation to the Agency, about all matters falling within subsection (2).

(2) Those matters are—

- (a) matters with respect to which any provision of this Part has effect;
- (b) anything which is done under or for the purposes of any such provision; and
- (c) any obligations to act or refrain from acting that have arisen by or under this Part but have not yet been complied with, or have been contravened.

(2A) Subsection (2B) applies in a case where it appears to a local policing body that—

- (a) an obligation to act or refrain from acting has arisen by or under this Part,
- (b) that obligation is an obligation of the chief officer of police of the police force which is maintained by the local policing body, and
- (c) the chief officer has not yet complied with that obligation, or has contravened it.

(2B) The local policing body may direct the chief officer to take such steps as the local policing body thinks appropriate.

(2C) The chief officer must comply with any direction given under subsection (2B).

(3) Where—

- (a) a local policing body maintaining any police force requires the chief officer of that force or of any other force to provide a member of his force for appointment under paragraph 16, 17 or 18 of Schedule 3,
- (b) the chief officer of police of any police force requires the chief officer of police of any other police force to provide a member of that other force for appointment under any of those paragraphs, or
- (c) a local policing body or chief officer requires the Director General of the Agency of the National Crime Agency to provide a National Crime Agency officer for appointment under any of those paragraphs,

it shall be the duty of the chief officer to whom the requirement is addressed or of the Director General of the Agency to comply with it.

(4) It shall be the duty of—

- (a) every local policing body maintaining a police force,
- (b) the chief officer of police of every police force, and
- (c) the National Crime Agency,

to provide the Commission Director General and every member of the Commission's Office's staff with all such assistance as the Commission Director General or that member of staff may reasonably require for the purposes of, or in connection with, the carrying out of any investigation by the Commission Director General under this Part or any review under paragraph 25 of Schedule 3.

(5) It shall be the duty of—

- (a) every local policing body maintaining a police force,
- (b) the chief officer of every police force, and
- (c) the National Crime Agency,

to ensure that a person appointed under paragraph 16, 17 or 18 of Schedule 3 to carry out an investigation is given all such assistance and co-operation in the carrying out of that investigation as that person may reasonably require

(6) The duties imposed by subsections (4) and (5) on a local policing body maintaining a police force and on the chief officer of such a force and on the National Crime Agency have effect—

- (a) irrespective of whether the investigation or review (as the case may be) relates to the conduct of a person who is or has been a member of that force or a National Crime Agency officer; and
- (b) in the case of an investigation, irrespective of who has the person appointed to carry out the investigation under his direction and control; and
- (c) in the case of a review applied for under paragraph 25(1B) of Schedule 3 in respect of an investigation, irrespective of who had the person appointed to carry out the investigation under his direction and control;

but a chief officer of a third force may be required to give assistance and co-operation under subsection (5) only with the approval of the chief officer of the force to which the person who requires it belongs.

(7) In subsection (6) “third force”, in relation to an investigation, means a police force other than—

- (a) the force to which the person carrying out the investigation belongs; or
- (b) the force to which the person whose conduct is under investigation belonged at the time of the conduct;

and where the person whose conduct is under investigation was a National Crime Agency officer at the time of the conduct, “third force” means any police force other than the force to which the person carrying out the investigation belongs.

(8) Where the person who requires assistance and co-operation under subsection (5) is a National Crime Agency officer, a chief officer of a third force may be required to give that assistance and co-operation only with the approval of the Director General of the Agency.

(8B) In subsections (8) and (8A) “third force”, in relation to an investigation, means any police force other than the force to which the person whose conduct is under investigation belonged at the time of the conduct.

(9) Where—

- (a) the person carrying out an investigation is not a National Crime Agency officer; and
- (b) the person whose conduct is under investigation was not a National Crime Agency officer at the time of the conduct,

the Agency may be required to give assistance and co-operation under subsection (5) only with the approval of the relevant directing officer.

(10) In subsection (9) “the relevant directing officer”—

- (a) in a case where the person who requires assistance and cooperation belongs to a police force, means the chief officer of that force.

SECTION 16 OF THE POLICE REFORM ACT 2002

Section 16: Payment for assistance with investigations

(1) This section applies where—

- (a) one police force is required to provide assistance to another in connection with an investigation under this Part; or
- (b) a police force is required to provide assistance ~~in such a connection to the Commission to the Director General in connection with an investigation under this Part or a review under paragraph 25 of Schedule 3.~~

(2) For the purposes of this section—

(a) assistance is required to be provided by one police force to another in connection with an investigation under this Part if the chief officer of the first force (“the assisting force”) complies with a requirement under section 15(3) or (5) that is made in connection with-

(ai) an investigation of a complaint where the complainant expressed dissatisfaction with the other force;

(ii) an investigation of a recordable conduct matter relating to the conduct of a person who, at the time of the conduct, was a member of the other force, or

(iii) an investigation of a DSI matter in relation to which the relevant officer was, at the time of the death or serious injury, a member of the other force; and

(b) assistance is required to be provided ~~in such a connection by a police force (“the assisting force”) to the Commission by a police force (“the assisting force”) to the Director General in connection with an investigation under this Part or in a review under paragraph 25 of Schedule 3~~ if the chief officer of that force complies with a requirement under section 15(4) that is made in connection with-

(ai) an investigation of a complaint where the complainant expressed dissatisfaction with a force other than that force;

(ii) an investigation of a recordable conduct matter relating to the conduct of a person who, at the time of the conduct, was not a member of that force, or

(iii) an investigation of a DSI matter in relation to which the relevant officer was, at the time of the death or serious injury, not a member of that force., or

(iv) a review under paragraph 25 of Schedule 3 of the outcome of a complaint where the complainant expressed dissatisfaction with a force other than that force.

(3) Where the assistance is required to be provided by one police force to another, the local policing body maintaining that other police force shall pay to the local policing body maintaining the assisting force such contribution (if any) towards the costs of the assistance—

(a) as may be agreed between them; or

(b) in the absence of an agreement, as may be determined in accordance with any arrangements which—

(i) have been agreed to by local policing bodies generally; and

(ii) are for the time being in force with respect to the making of contributions towards the costs of assistance provided, in connection with investigations under this Part, by one police force to another; or

(c) in the absence of any such arrangements, as may be determined by the Secretary of State.

(4) Where the assistance is required to be provided by a police force to the *Commission Director General*, the *Commission Office* shall pay to the local policing body maintaining the assisting force such contribution (if any) towards the costs of the assistance—

(a) as may be agreed between the *Commission Director General* and that body; or

(b) in the absence of an agreement, as may be determined in accordance with any arrangements which—

(i) have been agreed to by local policing bodies generally and by the *Commission Director General*; and

(ii) are for the time being in force with respect to the making of contributions towards the costs of assistance provided, in connection with investigations under this Part, to the *Commission Director General*; or

(c) in the absence of any such arrangements, as may be determined by the Secretary of State.

(5) In this section (subject to subsection (6))—

(a) references to a police force and to a local policing body maintaining a police force include references to the National Crime Agency; and

(b) in relation to that Agency, references to the chief officer are references to the Director General of *that Agency*.

(6) This section shall have effect in relation to cases in which assistance is required to be provided by the National Crime Agency as if—

(a) the reference in subsection (3)(b) to local policing bodies generally included a reference to the Agency; and

(b) the reference in subsection (4)(b) to local policing bodies generally were a reference to the Agency.

(7) This section is without prejudice to the application of section 24 of the 1996 Act (assistance given voluntarily by one force to another) in a case in which assistance is provided, otherwise than in pursuance of any duty imposed by section 15 of this Act, in connection with an investigation under this Part.

SECTION 18 OF THE POLICE REFORM ACT 2002

18 Inspections of police premises on behalf of the Commission Director General

(1) Where—

(a) the *Commission Director General* requires—

- (i) a local policing body maintaining any police force, or
- (ii) the chief officer of police of any such force,

to allow a person nominated for the purpose by the *Commission Director General* to have access to any premises occupied for the purposes of that force and to documents and other things on those premises, and

(b) the requirement is imposed for any of the purposes mentioned in subsection (2),

it shall be the duty of the body or, as the case may be, of the chief officer to secure that the required access is allowed to the nominated person.

(2) Those purposes are—

(a) the purposes of any examination by the *Commission Director General* of the efficiency and effectiveness of the arrangements made by the force in question for handling complaints or dealing with recordable conduct matters or DSI matters;

(b) the purposes of any investigation by the *Commission Director General* under this Part or of any investigation carried out under ~~its~~ *the Director General's supervision or management direction*;

(c) the purposes of any review by the *Commission Director General* under paragraph 25 of Schedule 3.

(3) A requirement imposed under this section for the purposes mentioned in subsection (2)(a) must be notified to the body or chief officer at least 48 hours before the time at which access is required.

(4) Where—

(a) a requirement imposed under this section for the purposes mentioned in subsection (2)(a) requires access to any premises, document or thing to be allowed to any person, but

(b) there are reasonable grounds for not allowing that person to have the required access at the time at which he seeks to have it,
the obligation to secure that the required access is allowed shall have effect as an obligation to secure that the access is allowed to that person at the earliest practicable time after there cease to be any such grounds as that person may specify.

(5) The provisions of this section are in addition to, and without prejudice to—

(a) the rights of entry, search and seizure that are or may be conferred on—

- (i) a person designated for the purposes of paragraph 19 of Schedule 3, or

- (ii) any person who otherwise acts on behalf of the Commission
Director General,
in his capacity as a constable or as a person with the powers
and privileges of a constable; or
- (b) the obligations of local policing bodies and chief officers under
sections 15 and 17.

SECTION 20 OF THE POLICE REFORM ACT 2002

Section 20: Duty to keep the complainant informed

(1) In any case in which there is an investigation of a complaint in accordance with the provisions of Schedule 3—

- (a) by the ~~Commission Director General~~, or
- (b) under its ~~the Director General's management direction~~,

it shall be the duty of the ~~Commission Director General~~ to provide the complainant with all such information as will keep him properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in subsection (4).

(2) In any case in which there is an investigation of a complaint in accordance with the provisions of Schedule 3—

- (a) by the appropriate authority on its own behalf, or
- (b) ~~under the supervision of the Commission~~,

it shall be the duty of the appropriate authority to provide the complainant with all such information as will keep him properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in subsection (4).

(3) Where subsection (2) applies, it shall be the duty of the ~~Commission Director General~~ to give the appropriate authority all such directions as ~~it the Director General~~ considers appropriate for securing that that authority complies with its duty under that subsection; and it shall be the duty of the appropriate authority to comply with any direction given to it under this subsection.

(3A) *In any case in which a complaint is being handled—*

- (a) *in accordance with paragraph 6(2A) of Schedule 3 otherwise than by the appropriate authority making arrangements for the complaint to be investigated by the authority on its own behalf, or*
- (b) *otherwise than in accordance with Schedule 3 (as to which see paragraph 2(6C) of that Schedule),*

it shall be the duty of the appropriate authority to provide the complainant with all such information as will keep him properly informed, while the complaint is being handled and subsequently, of all the matters mentioned in subsection (4).

(4) ~~The matters of which the complainant must be kept properly informed are—~~

- (a) ~~the progress of the investigation;~~
- (b) ~~any provisional findings of the person carrying out the investigation;~~
- (c) ~~whether any report has been submitted under paragraph 22 of Schedule 3;~~
- (d) ~~the action (if any) that is taken in respect of the matters dealt with in any such report; and~~
- (e) ~~the outcome of any such action.~~

(4) *The matters of which the complainant must be kept properly informed are—*

- (a) *the progress of the handling of the complaint;*
- (b) *the outcome of the handling of the complaint;*
- (c) *any right to apply for a review conferred on the complainant by paragraph 6A or 25 of Schedule 3 (as the case may be);*
- (d) *such other matters as may be specified in regulations made by the Secretary of State.*

(4A) *The generality of subsection (4)(a) and (b) is not affected by any requirement to notify the complainant that is imposed by any other provision of this Part.*

(5) The duties imposed by this section on the ~~Commission~~ Director General and the appropriate authority in relation to any complaint shall be performed in such manner, and shall have effect subject to such exceptions, as may be provided for by regulations made by the Secretary of State.

(6) The Secretary of State shall not by regulations provide for any exceptions from the duties imposed by this section except so far as he considers it necessary to do so for the purpose of—

- (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 it has been determined in accordance with the regulations that 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.

(7) The non-disclosure of information is required on proportionality grounds if its disclosure would cause, directly or indirectly, an adverse effect which would be disproportionate to the benefits arising from its disclosure.

(8) Regulations under this section may include provision framed by reference to the opinion of, or a determination by, the ~~Commission~~ Director General or any local policing body or chief officer.

(8A) *In any case in which there is an investigation of a complaint, the Director General or the appropriate authority may comply with their duty under subsection (1) or (2) (as the case may be) so far as relating to the findings of a report submitted (or finalised) under provision made by virtue of paragraph 20A(4)(b) of Schedule 3, or a report of the investigation submitted (or completed) under paragraph 22 of Schedule 3, by sending the complainant a copy of the report.*

(8B) Subsection (8A) applies notwithstanding any obligation of secrecy imposed by any rule of law or otherwise but is subject to—
(a) regulations made under subsection (5), and
(b) section 21A.

(9) It shall be the duty of a person appointed to carry out an investigation under this Part, or who is otherwise involved in the handling of a complaint under this Part, to provide the Commission Director General or, as the case may be, the appropriate authority with all such information as the Commission Director General or that authority may reasonably require for the purpose of performing its their duty under this section.

SECTION 21 OF THE POLICE REFORM ACT 2002

Section 21: Duty to provide information for other persons

- (1) A person has an interest in being kept properly informed about the handling of a complaint, recordable conduct matter or DSI matter if—
 - (a) it appears to the ~~Commission~~ Director General or to an appropriate authority that he is a person falling within subsection (2) or (2A); and
 - (b) that person has indicated that he consents to the provision of information to him in accordance with this section and that consent has not been withdrawn.
- (2) A person falls within this subsection if (in the case of a ~~complaint or~~ *complaint that relates to conduct of a person serving with the police or a* recordable conduct matter)—
 - (a) he is a relative of a person whose death is the alleged result from the conduct complained of or to which the recordable conduct matter relates;
 - (b) he is a relative of a person whose serious injury is the alleged result from that conduct and that person is incapable of making a complaint;
 - (c) he himself has suffered serious injury as the alleged result of that conduct.
- (2A) A person falls within this subsection if (in the case of a DSI matter)—
 - (a) he is a relative of the person who has died;
 - (b) he is a relative of the person who has suffered serious injury and that person is incapable of making a complaint;
 - (c) he himself is the person who has suffered serious injury.
- (3) A person who does not fall within subsection (2) or (2A) has an interest in being kept properly informed about the handling of a complaint, recordable conduct matter or DSI matter if—
 - (a) the ~~Commission~~ Director General or an appropriate authority considers that he has an interest in the handling of the complaint, recordable conduct matter or DSI matter which is sufficient to make it appropriate for information to be provided to him in accordance with this section; and
 - (b) he has indicated that he consents to the provision of information to him in accordance with this section.
- (4) In relation to a complaint, this section confers no rights on the complainant.
- (5) A person who has an interest in being kept properly informed about the handling of a complaint, conduct matter or DSI matter is referred to in this section as an “interested person”.
- (6) In any case in which there is an investigation of the complaint, recordable conduct matter or DSI matter in accordance with the provisions of Schedule 3—

(a) by the ~~Commission Director General~~, or
(b) under its ~~the Director General's management direction~~,
it shall be the duty of the ~~Commission Director General~~ to provide the interested person with all such information as will keep him properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in subsection (9).

(7) In any case in which there is an investigation of the complaint, recordable conduct matter or DSI matter in accordance with the provisions of Schedule 3—

(a) by the appropriate authority on its own behalf, or
(b) ~~under the supervision of the Commission~~,
it shall be the duty of the appropriate authority to provide the interested person with all such information as will keep him properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in subsection (9).

(8) Where subsection (7) applies, it shall be the duty of the ~~Commission Director General~~ to give the appropriate authority all such directions as it ~~the Director General~~ considers appropriate for securing that that authority complies with its duty under that subsection; and it shall be the duty of the appropriate authority to comply with any direction given to it under this subsection.

(8A) *In any case in which—*

(a) *the complaint is being handled in accordance with paragraph 6(2A) of Schedule 3 otherwise than by the appropriate authority making arrangements for the complaint to be investigated by the authority on its own behalf, or*
(b) *the recordable conduct matter or DSI matter is being handled in a manner determined by the appropriate authority in accordance with paragraph 10(4D), 11(3E), 14(2) or 14D(2) of Schedule 3 otherwise than by the appropriate authority making arrangements for the matter to be investigated by the authority on its own behalf,*
it shall be the duty of the appropriate authority to provide the interested person with all such information as will keep him properly informed, while the complaint, recordable conduct matter or DSI matter is being handled and subsequently, of all the matters mentioned in subsection (9).

(9) ~~The matters of which the interested person must be kept properly informed are—~~

- (a) ~~the progress of the investigation;~~
- (b) ~~any provisional findings of the person carrying out the investigation;~~
- (ba) ~~whether the Commission or the appropriate authority has made a determination under paragraph 21A of Schedule 3;~~
- (c) ~~whether any report has been submitted under paragraph 22 or 24A of Schedule 3;~~
- (d) ~~the action (if any) that is taken in respect of the matters dealt with in any such report; and~~
- (e) ~~the outcome of any such action.~~

(9) *The matters of which the interested person must be kept properly informed are—*

- (a) *the progress of the handling of the complaint, recordable conduct matter or DSI matter;*
- (b) *the outcome of the handling of the complaint, recordable conduct matter or DSI matter;*
- (c) *such other matters as may be specified in regulations made by the Secretary of State.*

(9A) *The generality of subsection (9)(a) and (b) is not affected by any requirement to notify an interested person that is imposed by any other provision of this Part.*

(10) The duties imposed by this section on the *Commission Director General* and the appropriate authority in relation to any complaint, recordable conduct matter or DSI matter shall be performed in such manner, and shall have effect subject to such exceptions, as may be provided for by regulations made by the Secretary of State.

(11) Subsections (6) to (9) of section 20 apply for the purposes of this section as they apply for the purposes of that section.

(11A) *In any case in which there is an investigation of a complaint, recordable conduct matter or DSI matter, the Commission Director General or the appropriate authority may comply with its their duty under subsection (6) or (7) (as the case may be) so far as relating to the findings of a report submitted (or finalised) under provision made by virtue of paragraph 20A(4)(b) of Schedule 3, or a report of the investigation submitted (or completed) under paragraph 22 or 24A of Schedule 3, by sending an interested person a copy of the report.*

(11B) *Subsection (11A) applies notwithstanding any obligation of secrecy imposed by any rule of law or otherwise but is subject to—*

- (a) *regulations made under subsection (10), and*
- (b) *section 21A.*

(12) In this section “relative” means a person of a description prescribed in regulations made by the Secretary of State.

SECTION 23 OF THE POLICE REFORM ACT 2002

Section 23: Regulations

- (1) The Secretary of State may make regulations as to the procedure to be followed under any provision of this Part.
- (2) Without prejudice to the generality of the power conferred by subsection (1) or of any other power to make regulations conferred by any provision of this Part, the Secretary of State may also by regulations provide—
- (a) for the appropriate authority, in the case of a complaint against any person, to be required, in accordance with procedures provided for in the regulations—
 - (i) to supply the person complained against with a copy of the complaint; and
 - (ii) to supply the complainant with a copy of the record made of that complaint;
 - (b) for the matters to be taken into account in making any determination as to which procedure to adopt for handling complaints and dealing with recordable conduct matters and DSI matters;
 - (c) for any procedure for the purposes of this Part to be discontinued where—
 - (i) a complaint is withdrawn;
 - (ii) the complainant indicates that he does not wish any further steps to be taken; or
 - (iii) the whole or part of the investigation of the complaint has been postponed until the conclusion of criminal proceedings and the complainant fails to indicate after the conclusion of those proceedings that he wishes the investigation to be resumed; and for the manner in which any such withdrawal or indication is to be effected or given, and for the circumstances in which it is to be taken as effected or given;
 - (d) for requiring the subject-matter of a complaint that has been withdrawn to be treated for the purposes of this Part, in the cases and to the extent specified in the regulations, as a recordable conduct matter;
 - (e) for the manner in which any procedure for the purposes of this Part is to be discontinued in a case where it is discontinued in accordance with the regulations, and for the consequences of any such discontinuance;
 - (f) for the circumstances in which any investigation or other procedure under this Part may be or must be suspended to allow any other investigation or proceedings to continue, and for the consequences of such a suspension;
 - (g) for the regulation of the appointment of persons to carry out investigations under this Part or to assist with the carrying out of such investigations, for limiting the persons who may be appointed and for the regulation of the carrying out of any such investigation;
 - (h) for combining into a single investigation the investigation of any complaint, conduct matter or DSI matter with the investigation or

investigations of any one or more, or any combination, of the following—

- (i) complaints (whether or not relating to the same conduct),
- (ii) conduct matters, or
- (iii) DSI matters,

and for splitting a single investigation into two or more separate investigations;

(i) for the procedure to be followed in cases in which the ~~Commission Director General~~ relinquishes the ~~supervision or management direction~~ of any investigation and for the consequences of it's the ~~Director General~~ doing so;

(j) for the manner in which any reference of a complaint, conduct matter or DSI matter to the ~~Commission Director General~~ is to be made;

(k) for applying the provisions of this Part with such modifications as the Secretary of State thinks fit in cases where a complaint or recordable 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;

(l) for applying the provisions of this Part with such modifications as the Secretary of State thinks fit in cases where a complaint or conduct matter relates to the conduct of a person—

- (i) whose identity is unascertained at the time at which a complaint is made or a conduct matter is recorded;
- (ii) whose identity is not ascertained during, or subsequent to, the investigation of a complaint or recordable conduct matter;

(m) for the ~~Commission~~—

~~(i) to be required to notify actions and decisions it takes in consequence of the receipt of a memorandum under paragraph 23 or 25 of Schedule 3; and~~

~~(ii) to be authorised to provide information in relation to the matters notified;~~

(n) for the records to be kept by local policing bodies and chief officers—

- (i) with respect to complaints and purported complaints;
- (ii) with respect to recordable conduct matters or DSI matters; and

(iii) with respect to the exercise and performance of their powers and duties under this Part;

(o) for the ~~Commission Director General~~ to be required to establish and maintain a register of such information provided to it ~~the Director General or the Office~~ in accordance with this Part as may be of a description specified in the regulations and for regulating the extent to which information stored on that register may be published or otherwise disclosed to any person by the ~~Commission Director General~~;

(p) for chief officers to have power to delegate the exercise or performance of powers and duties conferred or imposed on them by or under this Part;

- (pa) for local policing bodies to have power to delegate the exercise or performance of powers and duties conferred or imposed on them by or under this Part (including powers and duties that are acquired by virtue of giving a notice under section 13A);
- (q) for the manner in which any notification for the purposes of any provision of this Part is to be given and the time at which, or period within which, any such notification must be given.
- (r) for enabling representations on behalf of a person to whose conduct an investigation relates to be made to the ~~Commission~~ Director General by a person who is not that person's legal representative but is of a description specified in the regulations.

SECTION 29 OF THE POLICE REFORM ACT 2002

Section 29: Interpretation of Part 2

(1) In this Part—

“the appropriate authority”—

(a) in relation to a person serving with the police or in relation to any complaint, conduct matter or investigation relating to the conduct of such a person, means—

(i) if that person is the chief officer or an acting chief officer, the local policing body for the area of the police force of which he is a member; and

(ii) if he is not the chief officer or an acting chief officer , the chief officer under whose direction and control he is; and

(aa) *in relation to any other complaint, means the chief officer of the police force with which dissatisfaction is expressed by the complainant; and*

(b) in relation to a death or serious injury matter, means—

(i) if the relevant officer is the chief officer or an acting chief officer, the local policing body for the area of the police force of which he is a member; and

(ii) if he is not the chief officer or an acting chief officer, the chief officer under whose direction and control he is; and, for the purposes of this definition, “acting chief officer” means a person exercising or performing functions of a chief constable in accordance with section 41 of the Police Reform and Social Responsibility Act 2011; a person exercising powers or duties of the Commissioner of Police of the Metropolis in accordance with section 44 or 45(4) of that Act; or a person exercising duties of the Commissioner of Police for the City of London in accordance with section 25 of the City of London Police Act 1839;

“chief officer” means the chief officer of police of any police force;

~~“the Commission” has the meaning given by section 9(1);~~

“complainant” shall be construed in accordance with subsection (2);

“complaint” has the meaning given by section 12;

“conduct” includes acts, omissions, statements and decisions (whether actual, alleged or inferred) ;

“conduct matter” has the meaning given by section 12;

“death or serious injury matter” and “DSI matter” have the meaning given by section 12;

“the Director General” means (unless otherwise specified) the Director General of the Office;

“disciplinary proceedings” means—

(a) in relation to a member of a police force or a special constable, proceedings under any regulations made by virtue of section 50 or 51 of the 1996 Act and identified as disciplinary proceedings by those regulations; and

(b) in relation to a person serving with the police who is not a member of a police force or a special constable, proceedings identified as such by regulations made by the Secretary of State for the purposes of this Part;

“document” means anything in which information of any description is recorded;

“information” includes estimates and projections, and statistical analyses;

“local resolution”, in relation to a complaint, means the handling of that complaint in accordance with a procedure which—

(a) does not involve a formal investigation; and

(b) is laid down by regulations under paragraph 8 of Schedule 3 for complaints which it has been decided, in accordance with paragraph 6 of that Schedule, to subject to local resolution;

“the Office” means the Office for Police Conduct;

“person complained against”, in relation to a complaint that relates to conduct of a person serving with the police, means the person whose conduct is the subject-matter of the complaint;

“recordable conduct matter” means (subject to any regulations under section 23(2)(d))—

(a) a conduct matter that is required to be recorded by the appropriate authority under paragraph 10 or 11, 11 or 13A of Schedule 3 or has been so recorded; or

(aa) a conduct matter that is required to be recorded by the appropriate authority under section 28A (8) or has been so recorded;

“relevant force”, in relation to the appropriate authority, means—

(a) if that authority is a local policing body, the police force which the body is responsible for maintaining; and

(b) if that authority is the chief officer of police of a police force, his force;

“serious injury” means a fracture, a deep cut, a deep laceration or an injury causing damage to an internal organ or the impairment of any bodily function;

“serving with the police”, in relation to any person, shall be construed in accordance with section 12(7) to (10)

(1A) In this Part “the relevant officer”, in relation to a DSI matter, means the person serving with the police (within the meaning of section 12(7) to (10))—

(a) who arrested the person who has died or suffered serious injury,

(b) in whose custody that person was at the time of the death or serious injury, or

(c) with whom that person had the contact in question;

and where there is more than one such person it means, subject to subsection (1B), the one who so dealt with him last before the death or serious injury occurred.

(1B) Where it cannot be determined which of two or more persons serving with the police dealt with a person last before a death or serious injury occurred, the relevant officer is the most senior of them.

(2) References in this Part, in relation to anything which is or purports to be a complaint, to the complainant are references—

- (a) ~~except in the case of anything which is or purports to be a complaint falling within section 12(1)(d), to the person by whom the complaint or purported complaint was made; and~~
- (b) ~~in that case, to the person on whose behalf the complaint or purported complaint was made;~~
- (a) *to the person by whom the complaint or purported complaint was made, or*
- (b) *in a case where the complaint or purported complaint was made on behalf of someone else, to the person on whose behalf it was made;*

but where any person is acting on another's behalf for the purposes of any complaint or purported complaint, anything that is to be or may be done under this Part by or in relation to the complainant may be done, instead, by or in relation to the person acting on the complainant's behalf.

(3) Subject to subsection (4), references in this Part, in relation to any conduct or anything purporting to be a complaint about any conduct, to a member of the public include references to any person falling within any of the following paragraphs (whether at the time of the conduct or at any subsequent time)—

- (a) a person serving with the police;
- [Paragraphs (b) and (c) repealed]
- (ca) a National Crime Agency officer; or
- (d) a person engaged on relevant service, within the meaning of section 97(1)(a) or (d) of the 1996 Act (temporary service of various kinds).

(4) In this Part references, in relation to any conduct or to anything purporting to be a complaint about any conduct, to a member of the public do not include references to—

- (a) a person who, at the time when the conduct is supposed to have taken place, was under the direction and control of the same chief officer as the person whose conduct it was; or
- (b) a person who—
 - (i) at the time when the conduct is supposed to have taken place, in relation to him, or
 - (ii) at the time when he is supposed to have been adversely affected by it, or to have witnessed it,
was on duty in his capacity as a person falling within subsection (3)(a) to (d).

(4A) *In this Part references, in relation to anything purporting to be a complaint other than a complaint about any conduct, to a member of the public include references to any person falling within subsection (3)(a) to (d) other than a person who is—*

- (a) *a member of the police force with which dissatisfaction is expressed,*
- (b) *a civilian employee of that police force,*

(c) a special constable who is under the direction and control of the chief officer of that police force, or
(d) where dissatisfaction is expressed with the City of London police force, an employee of the Common Council of the City of London who is under the direction and control of the chief officer of that force.

(5) For the purposes of this Part a person is adversely affected if he suffers any form of loss or damage, distress or inconvenience, if he is put in danger or if he is otherwise unduly put at risk of being adversely affected.

(6) References in this Part to the investigation of any complaint or matter by the appropriate authority on its own behalf, ~~under the supervision of the Commission, under the management direction of the Commission Director General or by the Commission Director General itself~~ shall be construed as references to its investigation in accordance with paragraph 16, 17, 18 or, as the case may be, 19 of Schedule 3.

(7) The Commissioner of Police for the City of London shall be treated for the purposes of this Part as if he were a member of the City of London police force.

(8) References in sections 26, 26BA and 26C to England and Wales include the sea and other waters within the seaward limits of the territorial sea adjacent to England and Wales.

SCHEDULE 2 TO THE POLICE REFORM ACT 2002

Schedule 2: THE INDEPENDENT POLICE COMPLAINTS COMMISSION *The Office for police Conduct*

Chairman-Director General

1

~~(1) The chairman of the Commission shall hold office as chairman of the Commission in accordance with the terms of his appointment.~~

(1) The Director General holds office in accordance with the terms of his or her appointment.

(1A) A person who holds office as Director General must not be an employee of the Office (but may have been such an employee before appointment as the Director General).

~~(2) A person who has been sentenced to a term of imprisonment of three months or more shall not, at any time in the five years following the day on which he was sentenced, be appointed as chairman of the Commission Director General; and an appointment made in contravention of this subparagraph shall have no effect.~~

~~(3) The appointment of the chairman of the Commission Director General shall be for a term not exceeding five years; but the chairman Director General shall be eligible for re-appointment at the end of his term of office.~~

~~(4) The chairman of the Commission Director General may be removed from office by Her Majesty either—~~

- ~~(a) at his own request; or~~
- ~~(b) on being advised by the Secretary of State that there are grounds falling with sub-paragraph (5) for the removal of the chairman Director General.~~

~~(5) The following are grounds for removing the chairman Director General from office—~~

- ~~(a) that he has failed without reasonable excuse to carry out the functions of his office for a continuous period of three months;~~
- ~~(b) that he has become a person falling within one or more paragraphs of section 9(3);~~
- ~~(c) that he has, since his appointment, been sentenced to imprisonment for a term of three months or more;~~
- ~~(d) that he is a person who—~~
 - ~~(i) has had a bankruptcy order made against him;~~
 - ~~(ii) has had his estate sequestrated; or~~
 - ~~(iii) has made a composition or arrangement with, or granted a trust deed for, his creditors;~~
- ~~(e) that he is subject to—~~

- (i) a disqualification order under the Company Directors Disqualification Act 1986 (c. 46) or under the Company Directors Disqualification (Northern Ireland) Order 2002; or
- (ii) an order made under section 429(2)(b) of the Insolvency Act 1986 (c. 45) (failure to pay under county court administration order);
- (f) that he has acted improperly in relation to his duties; or
- (g) that he is otherwise unable or unfit to perform his duties.

(6) For the purposes of this paragraph a sentence of imprisonment for any term the whole or part of which is suspended shall be taken to be a sentence of imprisonment for the whole term.

Appointment of members

1A (1) The non-executive members of the Office are to be appointed by the Secretary of State.

(2) A person who is a non-executive member must not be an employee of the Office (but may have been such an employee before appointment as a non-executive member).

1B (1) The employee members of the Office are to be appointed from the staff of the Office by the non-executive members.

(2) If the non-executive members propose to appoint an employee member, the Director General must recommend a person to the non-executive members for appointment.

(3) The Director General may also recommend a person to the non-executive members for appointment as an employee member without any proposal having been made under sub-paragraph (2).

(4) On a recommendation of a person for appointment under sub-paragraph (2) or (3), the non-executive members may—

- (a) appoint the person, or*
- (b) reject the recommendation.*

(5) If the non-executive members reject a recommendation they may require the Director General to recommend another person for appointment (in which case this sub-paragraph applies again and so on until somebody is appointed).

Ordinary members of the Commission Terms of appointment etc: non-executive members

2

(1) Subject to the provisions of this Schedule, a person shall hold office as an ordinary a non-executive member in accordance with the terms of his appointment.

~~(2) An appointment as an ordinary member may be to whole or to part time membership of the Commission.~~

(3) A person who has been sentenced to a term of imprisonment of three months or more shall not, at any time in the five years following the day on which he is sentenced, be appointed as ~~an ordinary~~ a *non-executive* member; and an appointment made in contravention of this sub-paragraph shall have no effect.

(4) A person shall not be appointed to be ~~an ordinary~~ a *non-executive* member for a term of more than ~~five~~ *three* years; but ~~an ordinary~~ a *non-executive* member shall be eligible for re-appointment at the end of his term of office.

~~(5) An ordinary A non-executive member may at any time resign his office as a member of the Commission from being a non-executive member of the Office by notice in writing to the Secretary of State.~~

(6) The Secretary of State may at any time remove a person from office as ~~an ordinary~~ a *non-executive* member if he is satisfied that that person—

(a) has failed without reasonable excuse to carry out the functions of his office for a continuous period of three months beginning not earlier than six months before that time;

~~(b) has become a person falling within one or more paragraphs of section 9(3);~~

(c) has, since his appointment, been sentenced to imprisonment for a term of three months or more;

(d) is a person who—

(i) has had a bankruptcy order made against him;

(ii) has had his estate sequestrated; or

(iii) has made a composition or arrangement with, or granted a trust deed for, his creditors;

(e) is subject to—

(i) a disqualification order under the Company Directors Disqualification Act 1986 (c. 46) or under the Company Directors Disqualification (Northern Ireland) Order 2002; or

(ii) an order made under section 429(2)(b) of the Insolvency Act 1986 (c. 45) (failure to pay under county court administration order);

(f) has acted improperly in relation to his duties; or

(g) is otherwise unable or unfit to perform his duties.

(7) For the purposes of this paragraph a sentence of imprisonment for any term the whole or part of which is suspended shall be taken to be a sentence of imprisonment for the whole term.

~~(8) In this paragraph “ordinary member” means a member of the Commission other than the chairman.~~

Terms of appointment etc: employee members

2A (1) A person holds office as an employee member in accordance with the terms of his or her appointment (subject to the provisions of this Schedule).

(2) Those terms may not include arrangements in relation to remuneration.

(3) An appointment as an employee member may be full-time or part time.

(4) The appointment of an employee member terminates—

- (a) if the terms of the member's appointment provides for it to expire at the end of a period, at the end of that period, and
- (b) in any event, when the member ceases to be an employee of the Office.

(5) An employee member may resign by giving written notice to the non-executive members.

(6) The non-executive members may terminate the appointment of an employee member by giving the member written notice if they are satisfied that any of the grounds mentioned in paragraph 2(6)(a) to (g) apply in relation to the employee member.

Deputy Chairmen

3

(1) The Secretary of State may appoint not more than two deputy chairmen of the Commission from amongst its members.

(2) A person who ceases to hold office as a member of the Commission shall cease at the same time to hold office as deputy chairman of the Commission.

(3) A person shall hold office as a deputy chairman of the Commission in accordance with the terms of his appointment.

(4) A deputy chairman of the Commission may at any time resign his office as a deputy chairman by notice in writing to the Secretary of State.

(5) A deputy chairman of the Commission who is reappointed as a member from the time that would otherwise have been the end of his term of office as a member shall cease to be a deputy chairman at that time unless he is also reappointed to that office.

Director General: vacancy or incapacity

3A (1) This paragraph applies if—

- (a) the office of Director General is vacant, or
- (b) it appears to the Office that the ability of the Director General to carry out the Director General's functions is seriously impaired because of ill health (whether mental or physical).

(2) The Office may, with the agreement of the Secretary of State, authorise an employee of the Office to carry out the functions of the Director General during the vacancy or period of ill health.

(3) A person who falls within section 9(3) may not be authorised under this paragraph to carry out the functions of the Director General.

(4) A person who has been sentenced to a term of imprisonment of three months or more may not, at any time in the five years following the day of sentence, be authorised under this paragraph to carry out the functions of the Director General.

(5) Paragraph 1(6) applies for the purposes of sub-paragraph (4).

(6) Authorisation of a person under this paragraph ceases to have effect—

- (a) at the end of the vacancy or period of ill health,
- (b) on the Office revoking the authorisation for any reason, or
- (c) on the Secretary of State withdrawing agreement to the authorisation for any reason.

Remuneration, pensions etc. of members

4

(1) The Secretary of State may pay, or make such payments towards the provision of, such remuneration, pensions, allowances or gratuities to or in respect of the chairman, deputy chairmen and members of the Commission, or any of them, as he may determine the Director General as the Secretary of State may determine.

(2) Where—

- (a) a person ceases, otherwise than on the expiry of his term of office, to hold office as chairman, deputy chairman or member of the Commission Director General, and
- (b) it appears to the Secretary of State that there are special circumstances which make it right for that person to receive compensation,

the Secretary of State may direct the Commission Office to make a payment to that person of such amount as the Secretary of State may determine.

(3) The Secretary of State may make remuneration arrangements in relation to non-executive members of the Office.

(4) Remuneration arrangements under sub-paragraph (3)—

- (a) may make provision for a salary, allowances and other benefits but not for a pension, and
- (b) may include a formula or other mechanism for adjusting one or more of those elements from time to time.

(5) Amounts payable by virtue of sub-paragraph (4) are to be paid by the Office.

The Chief Executive

5

(1) The Commission shall have a chief executive.

- (2) Subject to sub-paragraphs (3) and (5), it shall be for the Commission to appoint the person to be its chief executive.
- (3) The approval of the Secretary of State shall be required for any appointment by the Commission of a person to be its chief executive.
- (4) Subject to sub-paragraph (5), the Commission's chief executive shall be appointed on such terms and conditions and shall have such functions as the Commission may, with the approval of the Secretary of State, determine.
- (5) The first appointment of a person to be the chief executive of the Commission shall be made by the Secretary of State, instead of by the Commission; and the terms and conditions on which that appointment is made shall also be determined by the Secretary of State, instead of by the Commission.

Staff

6

(1) The Commission may appoint such employees, on such terms and conditions, as appear to it to be appropriate.

(1) *The Office may appoint staff.*

(2) The Commission Office may make arrangements with—

- (a) the chief officer of police of any police force maintained for a police area in England and Wales,
- (b) the chief constable of the Police Service of Scotland, or
- (c) the Chief Constable of the Police Service of Northern Ireland,

under which members of his force are engaged on temporary service with the Commission Office.

(3) The Commission Office may make such other arrangements for its staffing (*including arrangements in relation to terms and conditions and management of staff*) as it the Director General thinks fit.

(4) A member of a police force on temporary service with the Commission Office shall be under the direction and control of the Commission Director General.

(4A) *The powers under this paragraph are exercisable only by the Director General acting on behalf of the Office (subject to the power under paragraph 6A(1)).*

(5) The approval of the Secretary of State as to numbers and as to the terms and conditions of staff shall be required for the exercise by the Commission of its of the powers under this paragraph.

Delegation of functions

6A (1) *The Director General may authorise a person within sub-paragraph (2) to exercise on the Director General's behalf a function of the Director General.*

- (2) *The persons within this sub-paragraph are—*
- (a) *employee members of the Office;*
 - (b) *employees of the Office appointed under paragraph 6;*
 - (c) *seconded constables within the meaning of paragraph 8.*
- (3) *The reference in sub-paragraph (1) to a function of the Director General is to any function that the Director General has under this Act or any other enactment.*
- (4) *A person (“A”) who is authorised under sub-paragraph (1) to exercise a function may authorise another person within sub-paragraph (2) to exercise that function (but only so far as permitted to do so by the authorisation given to A).*
- (5) *An authorisation under this paragraph may provide for a function to which it relates to be exercisable—*
- (a) *either to its full extent or to the extent specified in the authorisation;*
 - (b) *either generally or in cases, circumstances or areas so specified;*
 - (c) *either unconditionally or subject to conditions so specified.*
- (6) *Provision under sub-paragraph (5) may (in particular) include provision for restricted persons not to exercise designated functions.*
- (7) *For the purposes of sub-paragraph (6)—*
- (a) *“designated functions” are any functions of the Director General that are designated by the Director General for the purposes of this paragraph (and such functions may in particular be designated by reference to the position or seniority of members of staff);*
 - (b) *“restricted persons” are, subject to any determination made under sub-paragraph (8), persons who fall within section 9(3).*
- (8) *The Director General may, in such circumstances as the Director General considers appropriate, determine that persons are not to be treated as restricted persons so far as relating to the exercise of designated functions (whether generally or in respect of particular functions specified in the determination).*
- (9) *The Director General must publish a statement of policy about how the Director General proposes to exercise the powers conferred by sub-paragraphs (7)(a) and (8).*
- (10) *The statement must in particular draw attention to any restrictions on the carrying out of functions imposed by virtue of their designation under sub-paragraph (7)(a) and explain the reasons for imposing them.*
- (11) *The exercise of the powers conferred by sub-paragraphs (7)(a) and (8) is subject to any regulations under section 23(1) of the kind mentioned in section 23(2)(g) (regulations limiting persons who may be appointed to carry out investigations etc).*

(12) An authorisation under this paragraph does not prevent the Director General from exercising the function to which the authorisation relates.

(13) Anything done or omitted to be done by or in relation to a person authorised under this paragraph in, or in connection with, the exercise or purported exercise of the function to which the authorisation relates is to be treated for all purposes as done or omitted to be done by or in relation to the Director General.

(14) Sub-paragraph (13) does not apply for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done by the authorised person.

Superannuation and insurance

7

(1) Where a person who—

- (a) is employed by the Commission Office, and
- (b) is by reference to that employment a participant in a scheme under section 1 of the Superannuation Act 1972 (c. 11),

is appointed as the chairman or as a deputy chairman of the Commission Director General or as a member of it, the Treasury may determine that his service in that office shall be treated for the purposes of the scheme as service as an employee of the Commission Office; and his rights under the scheme shall not be affected by anything done under paragraph 4.

(2) The Employers' Liability (Compulsory Insurance) Act 1969 (c. 57) shall not require insurance to be effected by the Commission Office.

Liability for acts of the Director General

7A (1) A person holding office as the Director General has no personal liability for an act or omission done by the person in the exercise of the Director General's functions unless it is shown to have been done otherwise than in good faith.

(2) The Office is liable in respect of unlawful conduct of the Director General in the carrying out, or purported carrying out, of the Director General's functions in the same way as an employer is liable in respect of any unlawful conduct of employees in the course of their employment.

(3) Accordingly, the Office is to be treated, in the case of any such unlawful conduct which is a tort, as a joint tortfeasor.

Liability for acts of seconded staff

8

(1) The Commission Office shall be liable in respect of unlawful conduct of seconded constables in the carrying out, or purported carrying out, of their functions as members of the Commission's Office's staff in the like manner as an employer is liable in respect of any unlawful conduct of his employees in the course of their employment.

(2) Accordingly, the Commission Office shall be treated in the case of any such unlawful conduct which is a tort, as a joint tortfeasor.

(3) In this paragraph “*seconded constables*” mean persons serving as members of the Commission’s Office’s staff without being employed by it.

Power of Commission to set up regional offices

9

~~If it appears to the Commission that it is necessary to do so in order to carry out its functions efficiently, the Commission may, with the consent of the Secretary of State, set up regional offices in places in England and Wales.~~

(1) *The Office may set up regional offices in places in England and Wales.*

(2) *But the power under sub-paragraph (1) is exercisable only by the Director General acting on behalf of the Office (subject to the power in paragraph 6A(1)).*

(3) *The power under sub-paragraph (1) may be exercised—*

- (a) only with the consent of the Secretary of State, and*
- (b) only if it appears to the Director General necessary to do so for the purpose of ensuring that the functions of the Director General, or those of the Office, are carried out efficiently and effectively.*

Proceedings

10

(1) The arrangements for the proceedings of the Commission Office (including the quorum for meetings and the establishment of committees) shall be such as the Commission Office may determine.

(1A) *But the arrangements must include provision for—*

- (a) the quorum for meetings to be met only if a majority of members present are non-executive members of the Office, and*
- (b) an audit committee of the Office to be established to perform such monitoring, reviewing and other functions as are appropriate.*

(1B) *The arrangements must secure that the audit committee consists only of non-executive members of the Office.*

(2) The arrangements may include provision for the committees established under the arrangements to include members of the Commission’s Office’s staff and other persons who are not members of the Commission Office.

(3) The arrangements may include provision for persons selected by the Commission Office to attend meetings of the Commission Office or of any committee established by it.

(4) The Commission Office may—

- (a) pay such remuneration and allowances as it may determine to members of committees established by it who are neither members of the Commission Office nor members of its staff; and*

- (b) make such payments for the reimbursement of expenses incurred by persons attending meetings in accordance with arrangements made by virtue of sub-paragraph (3) as it may determine.
- (5) The arrangements may provide for the carrying out, under the general direction of the Commission Office, of any of the Commission's Office's functions—
- (a) by a committee established by the Commission Office;
 - (b) by one or more of the members of the Commission Office; or
 - (c) ~~by the chief executive or~~ by one or more members of the Commission's Office's staff.

Proceedings

11

The validity of any proceedings of the Commission Office or of any of its committees shall not be affected by—

- (a) any defect in the appointment of the ~~chairman, a deputy chairman Director General~~ or any member of the Commission Office; or
- (b) any vacancy in the office of ~~chairman Director General~~ or among the members of the Commission Office.

Authentication of the Commission's Office's seal

12

The application of the seal of the Commission Office shall be authenticated by the signature of—

- (a) any member of the Commission Office; or
- (b) any other person who has been authorised by the Commission Director General (whether generally or specially) for that purpose.

Evidence of documents

13

A document purporting to be—

- (a) duly executed by the Commission Office under its seal, or
- (b) signed on its behalf,

shall be received in evidence and shall, unless the contrary is shown, be taken to be so executed or signed.

Payments by the Secretary of State

14

The Secretary of State may pay to the Commission Office—

- (a) sums equal to any amounts paid or falling to be paid by it under any provision of this Act (other than paragraph 15); and
- (b) such other sums as appear to him to be appropriate for enabling it ~~or the Director General~~ to meet the expenses incurred or to be incurred by it in the carrying out of its ~~their~~ functions *in the carrying out of its or the Director General's functions*.

Other receipts by the Commission Office

15

- (1) The Commission Office shall pay to the Secretary of State all sums received by it (otherwise than under paragraph 14) in the course of, or in connection with, the carrying out of its *or the Director General's* functions.
- (2) Sub-paragraph (1) shall not apply where the Secretary of State so directs.
- (3) Any sums received by the Secretary of State under this paragraph shall be paid into the Consolidated Fund.

Borrowing

16

The Commission Office shall not borrow money unless authorised to do so (whether generally or specially) by the Secretary of State.

Accounts

17

- (1) The Commission Office shall—
 - (a) keep proper accounts and proper records in relation to the accounts;
 - (b) prepare in respect of each financial year of the Commission Office a statement of accounts in such form as the Secretary of State may direct; and
 - (c) send copies of the statement to the Secretary of State and the Comptroller and Auditor General before the end of August in the financial year of the Commission Office following that to which the statement relates.
- (2) The Comptroller and Auditor General shall—
 - (a) examine, certify and report on every statement received by him by virtue of this paragraph; and
 - (b) lay copies of every such statement, and of his report on it, before Parliament.

Financial year of the Commission Office

18

The following are financial years of the Commission Office—

- (a) the period beginning with the day on which the Commission Office is established and ending with 31st March falling next after that day; and
- (b) every subsequent period of twelve months ending with 31st March.

SCHEDULE 3 TO THE POLICE REFORM ACT 2002

Schedule 3: Handling of complaints and conduct matters etc.

Part 1: Handling of complaints

1: Duties to preserve evidence relating to complaints

(1) Where a complaint is made about the conduct of a chief officer, it shall be the duty of the local policing body maintaining his force to secure that all such steps as are appropriate for the purposes of Part 2 of this Act are taken, both initially and from time to time after that, for obtaining and preserving evidence relating to the conduct complained of.

(2) Where—

(a) a complaint is made to a chief officer about the conduct of a person under his direction and control, or

(b) a chief officer becomes aware that a complaint about the conduct of a person under his direction or control has been made to the *Commission Director General* or to a local policing body,

the chief officer shall take all such steps as appear to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to the conduct complained of.

(3) The chief officer's duty under sub-paragraph (2) must be performed as soon as practicable after the complaint is made or, as the case may be, he becomes aware of it.

(4) After that, he shall be under a duty, until he is satisfied that it is no longer necessary to do so, to continue to take the steps from time to time appearing to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to the conduct complained of.

(5) It shall be the duty of a local policing body to comply with all such directions as may be given to it by the *Commission Director General* in relation to the performance of its duty under sub-paragraph (1).

(6) It shall be the duty of a chief officer to take all such specific steps for obtaining or preserving evidence relating to ~~any conduct that is the subject-matter of a complaint as he may be directed to take for the purposes of this paragraph by the local policing body maintaining his force or by the Commission Director General.~~

2: Initial handling and recording of complaints

(1) Where a complaint is made to the ~~Commission Director General~~, it the Director General shall give notification of the complaint to the appropriate authority.

(1A) But the ~~Commission Director General~~ need not give that notification if the ~~Commission Director General~~ considers that there are exceptional circumstances that justify its not being given.

(2) Where a complaint is made to a local policing body, it shall—

- (a) determine whether or not it is itself the appropriate authority; and
- (b) if it determines that it is not, give notification of the complaint to the person who is.

(3) Where a complaint is made to a chief officer, he shall—

- (a) determine whether or not he is himself the appropriate authority; and
- (b) if he determines that he is not, give notification of the complaint to the person who is.

[Sub-paragraph (4) repealed]

(5) Where the ~~Commission Director General~~, a local policing body or a chief officer gives notification of a complaint under any of sub-paragraphs (1) to (3), the person who gave the notification shall notify the complainant—

- (a) that the notification has been given and of what it contained.

[Paragraph (b) repealed]

(6) Where—

- (a) a local policing body determines, in the case of any complaint made to the body, that it is itself the appropriate authority,
- (b) a chief officer determines, in the case of any complaint made to that chief officer, that he is himself the appropriate authority, or
- (c) a complaint is notified to a local policing body or chief officer under this paragraph,

the body or chief officer shall record the complaint contact the complainant and seek the complainant's views on how the complaint should be handled.

(6A) A local policing body or chief officer that is subject to the duty in sub-paragraph (6) in relation to a complaint must record the complaint if—

- (a) at any time the complainant indicates a wish for the complaint to be recorded, or
- (b) the local policing body or chief officer determines that the complaint is to be handled in accordance with this Schedule.

(6B) The local policing body or chief officer must determine that a complaint is to be handled in accordance with this Schedule if—

- (a) the complaint is one alleging that the conduct or other matter complained of has resulted in death or serious injury,

- (b) the complaint is one alleging that there has been conduct by a person serving with the police which (if proved) might constitute the commission of a criminal offence or justify the bringing of disciplinary proceedings,
- (c) the conduct or other matter complained of (if proved) might have involved the infringement of a person's rights under Article 2 or 3 of the Convention (within the meaning of the Human Rights Act 1998), or
- (d) the complaint is of a description specified for the purposes of paragraph 4(1)(b) in regulations made by the Secretary of State.

(6C) Where a local policing body or chief officer determines (for the purposes of sub-paragraph (6A)) that a complaint is to be handled otherwise than in accordance with this Schedule, the local policing body or chief officer must handle the complaint in such other manner as the local policing body or chief officer considers appropriate with a view to resolving the complaint to the complainant's satisfaction.

(The duty in this sub-paragraph ceases to apply if the complaint is recorded in accordance with sub-paragraph (6A)(a).)

(6D) Where a local policing body or chief officer records a complaint under sub-paragraph (6A), or determines that a complaint is to be handled otherwise than in accordance with this Schedule, the local policing body or chief officer must notify the complainant of the recording of the complaint or (as the case may be) of the determination.

(7) Nothing in this paragraph shall require the notification or recording by any person of any complaint about any conduct if

- (a) that person is satisfied that the subject-matter of the complaint has been, or is already being, dealt with by means of criminal or disciplinary proceedings against the person whose conduct it was; or
- (b) the complaint has been withdrawn.

(7) Nothing in this paragraph shall require the taking of any action in relation to a complaint if the complaint has been withdrawn.

(8) Nothing in this paragraph shall require the recording by any person of any complaint about any conduct if that person considers that the complaint falls within a description of complaints specified in regulations made by the Secretary of State for the purposes of this paragraph.

(9) If a local policing body or chief officer decides that it or (as the case may be) he is not required to comply with any of sub-paragraphs (2), (3) and (6) to (6C) on the basis of a determination that what purports to be a complaint is not a complaint, the local policing body or chief officer must notify the complainant of the determination and the grounds on which it was made.

(10) If a local policing body or chief officer determines that part of what has been received (whether directly or by virtue of a notification under this paragraph) is a complaint and part is not, the local policing body or chief

officer must proceed under this paragraph as if those two parts had been separately received.

3: Failures to notify or record a complaint

(1) This paragraph applies where anything which is or purports to be a complaint in relation to which paragraph 2 has effect is received by a local policing body or chief officer (whether in consequence of having been made directly or of a notification under that paragraph).

(2) If the local policing body or chief officer decides not to take action under paragraph 2 for notifying or recording the whole or any part of what has been received, the body or chief officer shall notify the complainant of the following matters—

- (a) the decision to take no action and, if that decision relates to only part of what was received, the part in question;
- (b) the grounds on which the decision was made; and
- (c) that complainant's right to appeal against that decision under this paragraph.

(3) The complainant shall have a right of appeal to the Commission against any failure by the local policing body or chief officer to make a determination under paragraph 2 or to notify or record anything under that paragraph.

(3A) But the complainant has no right of appeal under sub-paragraph (3) in either of the following cases.

(3B) The first case is where, by virtue of paragraph 2(7), there is no requirement to record the complaint.

(3C) The second case is where—

- (a) the complaint relates to a direction and control matter; and
- (b) the appeal relates to a failure by a local policing body.

(4) On an appeal under this paragraph, the Commission shall—

- (a) determine whether any action under paragraph 2 should have been taken in the case in question; and
- (b) if the Commission finds in the complainant's favour, give such directions as the Commission considers appropriate to the local policing body or chief officer as to the action to be taken for making a determination, or for notifying or recording what was received; and it shall be the duty of a local policing body or chief officer to comply with any directions given under paragraph (b).

(5) Directions under sub-paragraph (4)(b) may require action taken in pursuance of the directions to be treated as taken in accordance with any such provision of paragraph 2 as may be specified in the direction.

(6) The Commission—

- (a) shall give notification both to the local policing body or, as the case may be, the chief officer and to the complainant of any determination made by it under this paragraph; and
- (b) shall give notification to the complainant of any direction given by it under this paragraph to the local policing body or chief officer.

- (7) ~~The Secretary of State may by regulations make provision—~~
- (a) for the form and manner in which appeals under this paragraph are to be brought;
 - (b) for the period within which any such appeal must be brought; and
 - (c) for the procedure to be followed by the Commission when dealing with or disposing of any such appeal.

4: Reference of complaints to the Commission Director General

- (1) It shall be the duty of the appropriate authority to refer a complaint to the ~~Commission Director General~~, if—
 - (a) the complaint is one alleging that the conduct *or other matter* complained of has resulted in death or serious injury;
 - (b) the complaint is of a description specified for the purposes of this sub-paragraph in regulations made by the Secretary of State; or
 - (c) the ~~Commission Director General~~ notifies the appropriate authority that it *the Director General* requires the complaint in question to be referred to the ~~Commission~~-Director General for its *the Director General's* consideration.
- (2) In a case where there is no obligation under sub-paragraph (1) to make a reference the appropriate authority may refer a complaint to the ~~Commission Director General~~ if that authority considers that it would be appropriate to do so by reason of—
 - (a) the gravity of the subject-matter of the complaint; or
 - (b) any exceptional circumstances.
- (3) In a case in which a reference under sub-paragraph (1) or (2) is neither made nor required to be made, a local policing body may refer a complaint to the ~~Commission Director General~~ if—
 - (a) it is one in relation to which the chief officer of police of the police force maintained by that body is the appropriate authority; and
 - (b) the local policing body considers that it would be appropriate to do so reason of—
 - (i) the gravity of the subject-matter of the complaint; or
 - (ii) any exceptional circumstances.
- (4) Where there is an obligation under this paragraph to refer a complaint to the ~~Commission Director General~~, it must be so referred within such period as may be provided for by regulations made by the Secretary of State.
- (5) Subject to sub-paragraph (7), the following powers—

(a) the power of the ~~Commission~~ Director General by virtue of sub-paragraph (1)(c) to require a complaint to be referred to it *the Director General*, and
(b) the power of a local policing body or chief officer to refer a complaint to the ~~Commission~~ Director General under sub-paragraph (2) or (3),
shall each be exercisable at any time irrespective of whether the complaint is already being investigated by any person or has already been considered by the ~~Commission~~ Director General.

(5A) *The power of an appropriate authority to refer a complaint to the Director General under sub-paragraph (2) is also exercisable after a complaint has been handled in accordance with this Schedule if a recommendation is made under paragraph 6A(6)(a) or 25(4E)(b) (recommendation on a review).*

(6) A local policing body or chief officer which refers a complaint to the ~~Commission~~ Director General under this paragraph shall give a notification of the making of the reference—

- (a) to the complainant, and
- (b) except in a case where it appears to that body or chief officer that to do so might prejudice ~~a possible future investigation of the complaint~~ *an investigation of the complaint (whether an existing investigation or a possible future one)*, to the person complained against *(if any)*.

(6A) *A local policing body which refers a complaint to the Director General under sub-paragraph (3) shall also give a notification of the making of the reference to the appropriate authority.*

(7) A complaint that has already been referred to the ~~Commission~~ Director General under this paragraph on a previous occasion, or *that has been treated as having been so referred by paragraph 4A* —

- (a) shall not be required to be referred again under this paragraph unless the ~~Commission~~ Director General so directs; and
- (b) shall not be referred in exercise of any power conferred by this paragraph unless the ~~Commission~~ Director General consents.

(8) *In a case where—*

- (a) ~~a complaint relates to a direction and control matter, and~~
- (b) ~~there is no obligation under this paragraph for the appropriate authority to refer the complaint to the Commission,~~
~~the appropriate authority may refer the complaint to the Commission under this paragraph only if the Commission consents.~~

(9) *The appropriate authority must record any complaint that is referred to the Director General under this paragraph that has not already been recorded.*

4A: Power of Director General to treat complaint as having been referred

(1) *The Director General may treat a complaint that comes to the Director General's attention otherwise than by having been referred to the Director General under paragraph 4 as having been so referred.*

(2) *Where the Director General treats a complaint as having been referred to the Director General—*

- (a) *paragraphs 2 and 4 do not apply, or cease to apply, in relation to the complaint except to the extent provided for by paragraph 4(7), and*
- (b) *paragraphs 5, 6, 6A, 15 and 25 apply in relation to the complaint as if it had been referred to the Director General by the appropriate authority under paragraph 4.*

(3) *The Director General must notify the following that the Director General is treating a complaint as having been referred to the Director General—*

- (a) *the appropriate authority;*
- (b) *the complainant;*
- (c) *except in a case where it appears to the Director General that to do so might prejudice an investigation of the complaint (whether an existing investigation or a possible future one), the person complained against (if any).*

(4) *Where an appropriate authority receives a notification under sub-paragraph (3) in respect of a complaint and the complaint has not yet been recorded, the appropriate authority must record the complaint.*

5: Duties of Commission Director General on references under paragraph 4

(1) It shall be the duty of the *Commission Director General* in the case of every complaint referred to it by the Director General by a local policing body or chief officer, to determine whether or not it is necessary for the complaint to be investigated.

(1A) *The Secretary of State may by regulations provide that the Director General must determine that it is necessary for complaints 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.*

(1B) *Regulations under sub-paragraph (1A) may provide that the duty on the Director General applies only in relation to complaints relating to the conduct of a chief officer or the Deputy Commissioner of Police of the Metropolis that are of a description specified in the regulations.*

(1C) *Regulations under sub-paragraph (1A) may also provide that, where the Director General is required by the regulations to determine that it is necessary for a complaint to be investigated, paragraph 15 is to apply in relation to the complaint as if sub-paragraphs (4)(a), (4A) and (5A)(b) were omitted.*

(2) Where the Commission Director General determines under this paragraph that it is not necessary for a complaint to be investigated, ~~it may, if it thinks fit, refer the complaint back to the appropriate authority to be dealt with by that authority in accordance with paragraph 6.~~

(a) in a case where the complaint is already being investigated by the appropriate authority on its own behalf (and notwithstanding the Director General's determination), the Director General must refer the complaint back to the appropriate authority for the investigation to be completed, and

(b) in any other case, the Director General may, if it the Director General thinks fit, refer the complaint back to the appropriate authority to be dealt with by that authority in accordance with paragraph 6.

(3) Where the Commission Director General refers a complaint back under sub-paragraph (2), ~~it~~ the Director General shall give a notification of the making of the reference back—

*(a) to the complainant, and
(b) except in a case where it appears to the Commission Director General that to do so might prejudice a possible future investigation of the complaint an investigation of the complaint (whether an existing investigation or a possible future one), to the person complained against (if any).*

6: Handling of complaints by the appropriate authority

(1) This paragraph applies where a complaint has been recorded by the appropriate authority.

(2) But this paragraph does not apply to a complaint if it is one that has been, or must be, referred to the Commission Director General under paragraph 4, unless the complaint is for the time being—

*(a) referred back to the authority under paragraph 5(2)(b), or
(b) the subject of a determination under paragraph 15.*

(2A) The appropriate authority must handle the complaint in such reasonable and proportionate manner as the authority determines.

(2B) An appropriate authority may handle a complaint in accordance with sub-paragraph (2A) by (amongst other things)—

*(a) making arrangements for the complaint to be investigated by the authority on its own behalf;
(b) notifying the complainant that no further action is to be taken in relation to the complaint.*

(2C) The appropriate authority must comply with its duty under sub-paragraph (2A) by making arrangements for the complaint to be investigated by the authority on its own behalf if at any time it appears to the authority from the complaint, or from the authority's handling of the complaint to that point, that there is an indication that—

(a) 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

(b) there may have been the infringement of a person's rights under Article 2 or 3 of the Convention (within the meaning of the Human Rights Act 1998).

(2D) The Secretary of State may by regulations provide for the duty in sub-paragraph (2C) to be subject to exceptions.

(2E) A statement made by any person for the purposes of the handling of any complaint in accordance with sub-paragraph (2A) otherwise than by the appropriate authority making arrangements for the complaint to be investigated by the authority on its own behalf is not admissible in any subsequent criminal, civil or disciplinary proceedings except to the extent that it consists of an admission relating to a matter that has not been subjected to such handling.

(3) Subject to paragraph 7, the appropriate authority shall determine whether or not the complaint is suitable for being subjected to local resolution.

(4) If the appropriate authority determines that the complaint is suitable for being subjected to local resolution, it shall make arrangements for it to be so subjected.

(5) If the appropriate authority determines that the complaint is not so suitable, it shall make arrangements for the complaint to be investigated by the authority on its own behalf.

(6) A determination that a complaint is suitable for being subjected to local resolution may not be made unless the following conditions are both met.

(7) The first condition is that the appropriate authority is satisfied that the conduct complained of (even if it were proved) would not justify the bringing of any criminal or disciplinary proceedings against the person whose conduct is complained of.

(8) The second condition is that the appropriate authority is satisfied that the conduct complained of (even if it were proved) would not involve the infringement of a person's rights under Article 2 or 3 of the Convention (within the meaning of the Human Rights Act 1998).

(9) In a case where this paragraph applies to a complaint by virtue of sub-paragraph (2)(b), a determination that the complaint is suitable for being subjected to local resolution may not be made unless the Commission approves the determination.

(10) No more than one application may be made to the Commission for the purposes of sub-paragraph (9) in respect of the same complaint.

~~(11) Sub-paragraph (9) (where applicable) is in addition to sub-paragraphs (6) to (8).~~

Reviews relating to complaints dealt with other than by investigation

6A (1) This paragraph applies where a complaint is handled by the appropriate authority in accordance with paragraph 6(2A) otherwise than by the authority making arrangements for the complaint to be investigated by the authority on its own behalf.

(2) The complainant has the right to apply to the relevant review body for a review of the outcome of the complaint.

(3) The relevant review body must notify the following of an application for a review under sub-paragraph (2)—

- (a) the appropriate authority,*
- (b) every person entitled to be kept properly informed in relation to the complaint under section 21, and*
- (c) the person complained against (if any).*

(4) On a review applied for under sub-paragraph (2), the relevant review body must determine whether the outcome is a reasonable and proportionate outcome.

(5) Where the Director General is the relevant review body and the Director General finds that the outcome is not a reasonable and proportionate outcome, the Director General may—

- (a) determine that it is necessary for the complaint to be investigated;*
- (b) make a recommendation under paragraph 28ZA.*

(6) Where a local policing body is the relevant review body and the local policing body finds that the outcome is not a reasonable and proportionate outcome, the local policing body may—

- (a) where the complaint has not previously been referred to the Director General under paragraph 4, make a recommendation to the appropriate authority that it refer the complaint to the Director General under sub-paragraph (2) of that paragraph;*
- (b) make a recommendation to the appropriate authority that it make arrangements for the complaint to be investigated by the authority on its own behalf;*
- (c) make a recommendation under paragraph 28ZA.*

(7) The Secretary of State may by regulations make further provision about recommendations under sub-paragraph (6)(a) or (b).

(8) The regulations may (amongst other things) authorise the local policing body making the recommendation to require a response to the recommendation.

(9) The relevant review body must give notification of the outcome of a review under this paragraph and of its reasons for the determination made under sub-paragraph (4)—

- (a) to the appropriate authority,
- (b) to the complainant,
- (c) to every person entitled to be kept properly informed in relation to the complaint under section 21, and
- (d) except in a case where it appears to the relevant review body that to do so might prejudice any investigation of the complaint, to the person complained against (if any).

(10) In this paragraph references to the outcome of a complaint do not include the outcome of any criminal or disciplinary proceedings brought in relation to any matter which was the subject of the complaint.

7: Disapplication of requirements of Schedule

(1) If, in a case in which paragraph 6 applies, the appropriate authority considers—

- (a) that it should handle the complaint otherwise than in accordance with this Schedule or should take no action in relation to it, and
- (b) that the complaint falls within a description of complaints specified in regulations made by the Secretary of State for the purposes of this paragraph,

the appropriate authority may handle the complaint in whatever manner (if any) that authority thinks fit.

(1A) But, in a case where paragraph 6 applies by virtue of paragraph 6(2)(a) or (b), the appropriate authority may not handle the complaint in whatever manner (if any) the authority thinks fit unless—

- (a) the authority applies to the Commission, in accordance with the regulations, for permission to so handle the complaint, and
- (b) the Commission gives permission.

(2) The appropriate authority shall notify the complainant—

- (a) that the appropriate authority has decided to handle the complaint as permitted by sub-paragraph (1) (in a case where the appropriate authority is not required to apply for permission under sub-paragraph (1A) to so handle the complaint); or
- (b) about the making of the application under sub-paragraph (1A) (in a case where the appropriate authority makes such an application).

(3) Where such an application is made to the Commission, it shall, in accordance with regulations made by the Secretary of State—

- (a) consider the application and determine whether to grant the permission applied for; and
- (b) notify its decision to the appropriate authority and the complainant.

(4) Where an application is made under this paragraph in respect of any complaint, the appropriate authority shall not, while the application is being

~~considered by the Commission, take any action in accordance with the provisions of this Schedule (other than under paragraph 1) in relation to that complaint.~~

~~(5) Where the complaint is to be handled in whatever manner (if any) the authority thinks fit (whether or not the Commission's permission is needed), the authority—~~

- ~~(a) shall not be required by virtue of any of the provisions of this Schedule (other than paragraph 1) to take any action in relation to the complaint; but~~
- ~~(b) may handle the complaint in whatever manner it thinks fit, or take no action in relation to the complaint, and for the purposes of handling the complaint may take any step that it could have taken, or would have been required to take, if it were not proceeding in accordance with this paragraph.~~

~~(6) Where the appropriate authority applies to the Commission under subparagraph (1A) and the Commission determines that no permission should be granted—~~

- ~~(a) it shall refer the matter back to the appropriate authority for the making of a determination under paragraph 6(3); and~~
- ~~(b) the authority shall then make that determination.~~

~~(7) No more than one application may be made to the Commission under this paragraph in respect of the same complaint.~~

~~(8) The complainant shall have a right of appeal to the relevant appeal body against any decision by the appropriate authority under this paragraph to handle the complaint otherwise than in accordance with this Schedule or to take no action in relation to it.~~

~~(9) But the complainant has no right of appeal in either of the following cases.~~

~~(10) The first case is where the appeal relates to a decision for which the Commission has given permission under this paragraph.~~

~~(11) The second case is where the complaint relates to a direction and control matter.~~

~~(12) On an appeal under this paragraph, subject to sub-paragraphs (13) and (14), the relevant appeal body shall—~~

- ~~(a) determine whether any decision taken by the appropriate authority under this paragraph should have been taken in the case in question; and~~
- ~~(b) if the relevant appeal body finds in the complainant's favour, give such directions as the relevant appeal body thinks appropriate to the local policing body or chief officer as to the action to be taken for handling the complaint in accordance with this Schedule or handling it otherwise than in accordance with this Schedule;~~

~~and it shall be the duty of a local policing body or chief officer to comply with any directions given under paragraph (b).~~

- (13) Sub-paragraph (12) does not apply in a case where a particular chief officer of police is—
(a) the person in respect of whose decision the appeal is made under this paragraph, and
(b) the relevant appeal body in relation to the appeal.

- (14) In such a case—

- (a) the appeal shall determine whether any decision taken by the appropriate authority under this paragraph should have been taken in the case in question; and
(b) if the appeal finds in the complainant's favour, the chief officer of police must take such action as the chief officer thinks appropriate for handling the complaint in accordance with this Schedule or handling it otherwise than in accordance with this Schedule.

8. Local resolution of complaints

- (1) The arrangements made by the appropriate authority for subjecting any complaint to local resolution may include the appointment of a person who—
(a) is serving with the police, and
(b) is under the direction and control of the chief officer of police of the relevant force,
to secure the local resolution of the complaint.
- (2) The Secretary of State may by regulations make provision—
(a) for the different descriptions of procedures that are to be available for dealing with a complaint where it is decided it is to be subjected to local resolution;
(b) for requiring a person complained against in a case in which the complaint is subjected to local resolution to be given an opportunity of commenting, in such manner as may be provided for in the regulations, on the complaint;
(c) for requiring that, on the making of an application in accordance with the regulations, a record of the outcome of any procedure for the local resolution of any complaint is to be given to the complainant.
- (3) A statement made by any person for the purposes of the local resolution of any complaint shall not be admissible in any subsequent criminal, civil or disciplinary proceedings except to the extent that it consists of an admission relating to a matter that has not been subjected to local resolution.
- (4) If, after attempts have been made to resolve a complaint using local resolution, it appears to the appropriate authority—
(a) that the resolution of the complaint in that manner is impossible, or
(b) that the complaint is, for any other reason, not suitable for such resolution,

~~it shall make arrangements for the complaint to be investigated by that authority on its own behalf.~~

- (5) ~~The local resolution of any complaint shall be discontinued if—~~
- ~~(a) any arrangements are made under sub-paragraph (4);~~
 - ~~(b) the Commission notifies the appropriate authority that it requires the complaint to be referred to the Commission under paragraph 4; or~~
 - ~~(c) the complaint is so referred otherwise than in pursuance of such a notification.~~
- (6) ~~A person who has participated in any attempt to resolve a complaint using local resolution shall be disqualified for appointment under any provision of this Schedule to investigate that complaint, or to assist with the carrying out of the investigation of that complaint.~~

8A: Appeals relating to complaints dealt with other than by investigation

- (1) ~~The complainant shall have a right of appeal to the relevant appeal body against the outcome of any complaint that is—~~
- ~~(a) subjected to local resolution, or~~
 - ~~(b) handled otherwise than in accordance with this Schedule.~~
- (2) ~~But the complainant has no right of appeal if the complaint relates to a direction and control matter.~~
- (3) ~~On an appeal under this paragraph, subject to sub-paragraphs (4) and (5), the relevant appeal body shall—~~
- ~~(a) determine whether the outcome of the complaint is a proper outcome; and~~
 - ~~(b) if the relevant appeal body finds in the complainant's favour, give such directions as the relevant appeal body thinks appropriate to the appropriate authority as to the action to be taken in relation to the complaint;~~
- ~~and it shall be the duty of the appropriate authority to comply with any directions given under paragraph (b).~~
- (4) ~~Sub-paragraph (3) does not apply in a case where a chief officer of police is the relevant appeal body in relation to the appeal.~~
- (5) ~~In such a case—~~
- ~~(a) the appeal shall determine whether the outcome of the complaint is a proper outcome; and~~
 - ~~(b) if the appeal finds in the complainant's favour, the chief officer of police must take such action as the chief officer thinks appropriate in relation to the complaint.~~

[Paragraph 9 repealed]

Part 2: Handling of conduct matters

10: Conduct matters arising in civil proceedings

(1) This paragraph applies where—

- (a) a local policing body or chief officer has received notification (whether or not under this paragraph) that civil proceedings relating to any matter have been brought by a member of the public against that body or chief officer, or it otherwise appears to a local policing body or chief officer that such proceedings are likely to be so brought; and
- (b) it appears to that body or chief officer (whether at the time of the notification or at any time subsequently) that those proceedings involve or would involve a conduct matter.

(2) The body or chief officer—

- (a) shall consider whether it or, as the case may be, he is the appropriate authority in relation to the conduct matter in question; and
- (b) if it or he is not, shall notify the person who is the appropriate authority about the proceedings, or the proposal to bring them, and about the circumstances that make it appear as mentioned in sub-paragraph (1)(b).

(3) Where a local policing body or chief officer determines for the purposes of this paragraph that it or, as the case may be, he is the appropriate authority in relation to any conduct matter, it or he shall determine whether the matter is one which it or he is required to refer to the *Commission Director General* under paragraph 13 or is one which it would be appropriate to so refer.

(4) In a case where the appropriate authority determines that the matter is one which it or he is required to refer to the *Commission Director General* under paragraph 13, or is one which it would be appropriate to so refer, it or he shall record the matter.

(4A) In any other case, the appropriate authority shall determine whether the matter falls within a description of matters specified in regulations made by the Secretary of State for the purposes of this sub-paragraph.

(4B) In a case where the appropriate authority determines that the matter does not fall within such a description, it or he shall record the matter.

(4C) In any other case, the appropriate authority may (but need not) record the matter.

(4D) In a case where the appropriate authority—

- (a) records a matter under this paragraph, and
- (b) is not required to refer the matter to the *Commission Director General* under paragraph 13 and does not do so,

the appropriate authority may deal with the matter in such other manner (if any) as it or he may determine.

(5) Nothing in sub-paragraph (4) or (4B) shall require the appropriate authority to record any conduct matter if it is satisfied that the matter has been, or is

already being, dealt with by means of criminal or disciplinary proceedings against the person to whose conduct the matter relates.

- (6) For the purposes of this paragraph civil proceedings involve a conduct matter if—
- (a) they relate to such a matter; or
 - (b) they are proceedings that relate to a matter in relation to which a conduct matter, or evidence of a conduct matter, is or may be relevant.

(7) The Secretary of State may by regulations provide for the times at which, or the periods within which, any requirement of this paragraph is to be complied with; and the period from which any such period is to run shall be such time as may be specified in those regulations or as may be determined in a manner set out in the regulations.

11: Recording etc. of conduct matters in other cases

- (1) This paragraph applies where—
- (a) a conduct matter comes (otherwise than as mentioned in paragraph 10) to the attention of the local policing body or chief officer who is the appropriate authority in relation to that matter, and
 - (b) it appears to the appropriate authority that the conduct involved in that matter falls within sub-paragraph (2).
- (2) Conduct falls within this sub-paragraph if (assuming it to have taken place)—
- (a) it appears to have resulted in the death of any person or in serious injury to any person;
 - (b) a member of the public has been adversely affected by it; or
 - (c) it is of a description specified for the purposes of this sub-paragraph in regulations made by the Secretary of State.
- (3) The appropriate authority must determine whether the matter is one which it or he is required to refer to the *Commission Director General* under paragraph 13, or is one which it would be appropriate to so refer.
- (3A) In a case where the appropriate authority determines that the matter is one which it or he is required to refer to the *Commission Director General* under paragraph 13, or is one which it would be appropriate to so refer, it or he shall record the matter.
- (3B) In any other case, the appropriate authority shall determine whether the matter falls within a description of matters specified in regulations made by the Secretary of State for the purposes of this sub-paragraph.
- (3C) In a case where the appropriate authority determines that the matter does not fall within such a description, it or he shall record the matter.
- (3D) In any other case, the appropriate authority may (but need not) record the matter.

- (3E) In a case where the appropriate authority—
(a) records a matter under this paragraph, and
(b) is not required to refer the matter to the *Commission Director General* under paragraph 13 and does not do so,
the appropriate authority may deal with the matter in such other manner (if any) as it or he may determine.
- (4) Nothing in sub-paragraph (3A) or (3C) shall require the appropriate authority to record any conduct matter if it is satisfied that the matter has been, or is already being, dealt with by means of criminal or disciplinary proceedings against the person to whose conduct the matter relates.
- (5) ~~If it appears to the Commission—~~
~~(a) that any matter that has come to its attention is a recordable conduct matter, but~~
~~(b) that that matter has not been recorded by the appropriate authority,~~
~~the Commission may direct the appropriate authority to record that matter;~~
~~and it shall be the duty of that authority to comply with the direction.~~

12: Duties to preserve evidence relating to conduct matters

- (1) Where a recordable conduct matter that relates to the conduct of a chief officer comes to the attention of the local policing body maintaining his force, it shall be the duty of that body to secure that all such steps as are appropriate for the purposes of Part 2 of this Act are taken, both initially and from time to time after that, for obtaining and preserving evidence relating to that matter.
- (2) Where a chief officer becomes aware of any recordable conduct matter relating to the conduct of a person under his direction and control, it shall be his duty to take all such steps as appear to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to that matter.
- (3) The chief officer's duty under sub-paragraph (2) must be performed as soon as practicable after he becomes aware of the matter in question.
- (4) After that, he shall be under a duty, until he is satisfied that it is no longer necessary to do so, to continue to take the steps from time to time appearing to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to the matter.
- (5) It shall be the duty of a local policing body to comply with all such directions as may be given to it by the *Commission Director General* in relation to the performance of any duty imposed on it by virtue of sub-paragraph (1).
- (6) It shall be the duty of the chief officer to take all such specific steps for obtaining or preserving evidence relating to any recordable conduct matter as

he may be directed to take for the purposes of this paragraph by the local policing body maintaining his force or by the ~~Commission~~ Director General.

13: Reference of conduct matters to the ~~Commission~~ Director General

(1) It shall be the duty of a local policing body or a chief officer to refer a recordable conduct matter to the ~~Commission~~ Director General if, in a case (whether or not falling within paragraph 10) in which the body or chief officer is the appropriate authority—

- (a) that matter relates to any incident or circumstances in or in consequence of which any person has died or suffered serious injury;
- (b) that matter is of a description specified for the purposes of this subparagraph in regulations made by the Secretary of State; or
- (c) the ~~Commission~~ Director General notifies the appropriate authority that it *the Director General* requires that matter to be referred to the ~~Commission~~ Director General for its *the Director General's* consideration.

(2) In any case where there is no obligation under sub-paragraph (1) to make a reference, the appropriate authority may refer a recordable conduct matter to the ~~Commission~~ Director General if that authority considers that it would be appropriate to do so by reason of—

- (a) the gravity of the matter; or
- (b) any exceptional circumstances.

(3) In a case in which a reference under sub-paragraph (1) or (2) is neither made nor required to be made, a local policing body maintaining any police force may refer any recordable conduct matter to the ~~Commission~~ Director General if—

- (a) it is one in relation to which the chief officer of police of that force is the appropriate authority; and
- (b) the local policing body considers that it would be appropriate to do so by reason of—
 - (i) the gravity of the matter; or
 - (ii) any exceptional circumstances.

(4) Where there is an obligation under this paragraph to refer any matter to the ~~Commission~~ Director General, it must be so referred within such period as may be provided for by regulations made by the Secretary of State.

(5) Subject to sub-paragraph (7), the following powers—

- (a) the power of the ~~Commission~~ Director General by virtue of sub-paragraph (1)(c) to require a matter to be referred to it *the Director General*, and
- (b) the power of a local policing body or chief officer to refer any matter to the ~~Commission~~ Director General under sub-paragraph (2) or (3), shall each be exercisable at any time irrespective of whether the matter is already being investigated by any person or has already been considered by the ~~Commission~~ Director General.

(6) Where—

(a) a local policing body or chief officer refers a matter to the *Commission Director General* under this paragraph, and
(b) that body or chief officer does not consider that to do so might prejudice a possible future investigation of that matter *an investigation of that matter (whether an existing investigation or a possible future one)*,
that body or chief officer shall give a notification of the making of the reference to the person to whose conduct that matter relates.

(7) A matter that has already been referred to the *Commission Director General* under this paragraph on a previous occasion, *or that has been treated as having been so referred by virtue of paragraph 13A* —
(a) shall not be required to be referred again under this paragraph unless the *Commission Director General* so directs; and
(b) shall not be referred in exercise of any power conferred by this paragraph unless the *Commission Director General* consents.

13A Power of Director General to treat conduct matter as having been referred

(1) *The Director General may treat a conduct matter that comes to the Director General's attention otherwise than by having been referred to the Director General under paragraph 13 as having been so referred.*

(2) *Where the Director General treats a conduct matter as having been referred to the Director General—*
(a) *paragraphs 10, 11 and 13 do not apply, or cease to apply, in relation to the matter except to the extent provided for by paragraph 13(7), and*
(b) *paragraphs 14 and 15 apply in relation to the matter as if it had been referred to the Director General by the appropriate authority under paragraph 13.*

(3) *The Director General must notify the following that the Director General is treating a conduct matter as having been referred to the Director General—*
(a) *the appropriate authority;*
(b) *except in a case where it appears to the Director General that to do so might prejudice an investigation of the matter (whether an existing investigation or a possible future one), the person to whose conduct the matter relates.*

(4) *Where an appropriate authority receives a notification under subparagraph (3) in respect of a conduct matter and the matter has not yet been recorded, the appropriate authority must record the matter.*

14: Duties of Commission Director General on references under paragraph 13

(1) It shall be the duty of the *Commission Director General*, in the case of every recordable conduct matter referred to it *the Director General* by a local

policing body or chief officer under paragraph 13, to determine whether or not it is necessary for the matter to be investigated.

(1A) *The Secretary of State may by regulations provide that 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.*

(1B) *Regulations under sub-paragraph (1A) may provide that the duty on the Director General applies only in relation to recordable conduct matters relating to the conduct of a chief officer or the Deputy Commissioner of Police of the Metropolis that are of a description specified in the regulations.*

(1C) *Regulations under sub-paragraph (1A) may also provide that, where the Director General is required by the regulations to determine that it is necessary for a recordable conduct matter to be investigated, paragraph 15 is to apply in relation to the matter as if sub-paragraphs (4)(a), (4A) and (5A)(b) were omitted.*

(2) Where the Commission Director General determines under this paragraph that it is not necessary for a recordable conduct matter to be investigated, it may if it thinks fit refer the matter back to the appropriate authority to be dealt with by that authority in such manner (if any) as that authority may determine.

(a) *in a case where the recordable conduct matter is already being investigated by the appropriate authority on its own behalf (and notwithstanding the Director General's determination), the Director General must refer the matter back to the appropriate authority for the investigation to be completed, and*

(b) *in any other case, the Director General may, if it the Director General thinks fit, refer the matter back to the appropriate authority to be dealt with by that authority in such manner (if any) as that authority may determine.*

(3) Where—

(a) the Commission Director General refers a matter back to the appropriate authority under this paragraph, and
(b) the Commission Director General does not consider that to do so might prejudice a possible future investigation of that matter *an investigation of that matter (whether an existing investigation or a possible future one),*

the Commission Director General shall give a notification of the making of the reference to the person to whose conduct that matter relates.

Part 2A: Handling of death and serious injury (DSI) matters

14A: Duty to record DSI matters

(1) Where a DSI matter comes to the attention of the local policing body or chief officer who is the appropriate authority in relation to that matter, it shall be the duty of the appropriate authority to record that matter.

(2) If it appears to the Commission—
(a) that any matter that has come to its attention is a DSI matter, but
(b) that that matter has not been recorded by the appropriate authority,
the Commission may direct the appropriate authority to record that matter; and it shall be the duty of that authority to comply with the direction.

14B Duty to preserve evidence relating to DSI matters

- (1) Where—
(a) a DSI matter comes to the attention of a local policing body, and
(b) the relevant officer in relation to that matter is the chief officer of the force maintained by that body,
it shall be the duty of that body to secure that all such steps as are appropriate for the purposes of Part 2 of this Act are taken, both initially and from time to time after that, for obtaining and preserving evidence relating to that matter.
- (2) Where—
(a) a chief officer becomes aware of a DSI matter, and
(b) the relevant officer in relation to that matter is a person under his direction and control,
it shall be his duty to take all such steps as appear to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to that matter.
- (3) The chief officer's duty under sub-paragraph (2) must be performed as soon as practicable after he becomes aware of the matter in question.

(4) After that, he shall be under a duty, until he is satisfied that it is no longer necessary to do so, to continue to take the steps from time to time appearing to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to the matter.

(5) It shall be the duty of a local policing body to comply with all such directions as may be given to it by the *Commission Director General* in relation to the performance of any duty imposed on it by virtue of sub-paragraph (1).

(6) It shall be the duty of the chief officer to take all such specific steps for obtaining or preserving evidence relating to any DSI matter as he may be directed to take for the purposes of this paragraph by the local policing body maintaining his force or by the *Commission Director General*.

14C: Reference of DSI matters to the *Commission Director General*

- (1) It shall be the duty of the appropriate authority to refer a DSI matter to the *Commission Director General*.
- (2) The appropriate authority must do so within such period as may be provided for by regulations made by the Secretary of State.

(3) A matter that has already been referred to the *Commission Director General* under this paragraph on a previous occasion, or that has been treated as having been so referred by virtue of paragraph 14CA, shall not be required to be referred again under this paragraph unless the *Commission Director General* so directs.

14CA Power of Director General to treat DSI matter as having been referred

(1) *The Director General may treat a DSI matter that comes to the Director General's attention otherwise than by having been referred to the Director General under paragraph 14C as having been so referred.*

(2) *Where the Director General treats a DSI matter as having been referred to the Director General—*

(a) *paragraphs 14A and 14C do not apply, or cease to apply, in relation to the matter except to the extent provided for by paragraph 14C(3), and*

(b) *paragraphs 14D and 15 apply in relation to the matter as if it had been referred to the Director General by the appropriate authority under paragraph 14C.*

(3) *The Director General must notify the appropriate authority that the Director General is treating a DSI matter as having been referred to the Director General.*

(4) *Where an appropriate authority receives a notification under subparagraph (3) in respect of a DSI matter and the matter has not yet been recorded, the appropriate authority must record the matter.*

14D: Duties of Commission Director General on references under paragraph 14C

(1) It shall be the duty of the *Commission Director General*, in the case of every DSI matter referred to it by a local policing body or a chief officer, to determine whether or not it is necessary for the matter to be investigated.

(1A) *The Secretary of State may by regulations provide that the Director General must determine that it is necessary for DSI matters referred to it by the Director General in relation to which the relevant officer is a chief officer or the Deputy Commissioner of Police of the Metropolis to be investigated.*

(1B) *Regulations under sub-paragraph (1A) may provide that the duty on the Director General applies only in relation to DSI matters in relation to which the relevant officer is a chief officer or the Deputy Commissioner of Police of the Metropolis that are of a description specified in the regulations.*

(1C) *Regulations under sub-paragraph (1A) may also provide that, where the Director General is required by the regulations to determine that it is*

necessary for a DSI matter to be investigated, paragraph 15 is to apply in relation to the matter as if sub-paragraphs (4)(a), (4A) and (5A)(b) were omitted.

(2) Where the Commission Director General determines under this paragraph that it is not necessary for a DSI matter to be investigated: ~~, it may if it thinks fit refer the matter back to the appropriate authority to be dealt with by that authority in such manner (if any) as that authority may determine.~~

(a) in a case where the DSI matter is already being investigated by the appropriate authority on its own behalf (and notwithstanding the Director General's determination), the Director General must refer the matter back to the appropriate authority for the investigation to be completed, and

(b) in any other case, the Director General may, if it the Director General thinks fit, refer the matter back to the appropriate authority to be dealt with by that authority in such manner (if any) as that authority may determine.

Part 3: Investigations and subsequent proceedings

15: Power of the Commission Director General to determine the form of an investigation

(1) This paragraph applies where—

- (a) a complaint, recordable conduct matter or DSI matter is referred to the Commission Director General; and
- (b) the Commission Director General determines *under paragraph 5(1), 14(1) or 14D(1)* that it is necessary for the complaint or matter to be investigated.

(1A) This paragraph also applies where the Director General determines under paragraph 6A(5)(a) that it is necessary for a complaint to be investigated.

(2) It shall be the duty of the Commission Director General to determine the form which the investigation should take.

(3) In making a determination under sub-paragraph (2) the Commission shall have regard to the following factors—

- (a) the seriousness of the case; and
- (b) the public interest.

(4) The only forms which the investigation may take in accordance with a determination made under this paragraph are—

- (a) an investigation by the appropriate authority on its own behalf;
- (b) ~~an investigation by that authority under the supervision of the Commission;~~
- (c) an investigation by that authority under the management direction of the Commission Director General;
- (d) an investigation by the Commission Director General.

(4A) In making a determination under sub-paragraph (2) the Director General must first determine whether, having regard to the seriousness of the case and the public interest, it is appropriate for the investigation to take the form of an investigation by the appropriate authority on its own behalf and if it is the Director General must determine that the investigation is to take that form.

(4B) Where, in accordance with sub-paragraph (4A), the Director General determines that it is not appropriate for the investigation to take the form of an investigation by the appropriate authority on its own behalf, the Director General must determine that the investigation is to take the form of an investigation by the Director General unless sub-paragraph (4C) applies.

(4C) This sub-paragraph applies where the Director General determines that it would be more appropriate for the investigation to take the form of an investigation by the appropriate authority under the direction of the Director General, in which case the Director General must determine that the investigation is to take that form.

(5) ~~The Commission may at any time make a further determination under this paragraph to replace an earlier one.~~

(5) Where the Director General determines under sub-paragraph (4C) or (5B) that an investigation is to take the form of an investigation by the appropriate authority under the direction of the Director General, the Director General must keep under review whether that form of investigation continues to be the most appropriate form of investigation.

(5A) If, on such a review, the Director General determines that—

(a) it would be more appropriate for the investigation to take the form of an investigation by the Director General, the Director General must make a further determination under this paragraph (to replace the earlier one) that the investigation is instead to take that form;

(b) having regard to the seriousness of the case and the public interest, it would be more appropriate for the investigation to take the form of an investigation by the appropriate authority on its own behalf, the Director General may make a further determination under this paragraph (to replace the earlier one) that the investigation is instead to take that form.

(5B) Subject to sub-paragraph (5A), if at any time the Director General determines that, were the Director General to apply sub-paragraphs (4A) to (4C) again, the form of the investigation would be different, the Director General may make a further determination under this paragraph (to replace the earlier one) such that the investigation takes that different form.

(6) Where a determination under this paragraph replaces an earlier determination under this paragraph, or relates to a complaint or matter in relation to which the appropriate authority has already begun an investigation on its own behalf, the ~~Commission~~ Director General may give—

(a) the appropriate authority, and

- (b) any person previously appointed to carry out the investigation, such directions as *it the Director General* considers appropriate for the purpose of giving effect to the new determination.
- (7) It shall be the duty of a person to whom a direction is given under subparagraph (6) to comply with it.
- (8) The Commission Director General shall notify the appropriate authority of any determination that *it the Director General* makes under this paragraph in relation to a particular complaint, recordable conduct matter or DSI matter *and of the Director General's reasons for making the determination.*
- (9) *The Director General shall also notify the following of any determination that the Director General makes under this paragraph in relation to a particular complaint, recordable conduct matter or DSI matter and of the Director General's reasons for making the determination—*
- (a) *every person entitled to be kept properly informed in relation to the complaint or matter under section 21;*
 - (b) *where the determination is made in relation to a complaint, the complainant;*
 - (c) *the person to whose conduct the investigation will relate.*
- (10) *The duty imposed by sub-paragraph (9) on the Director General in relation to a complaint, recordable conduct matter or DSI matter shall have effect subject to such exceptions as may be provided for by regulations made by the Secretary of State.*
- (11) *Subsections (6) to (8) of section 20 apply for the purposes of subparagraph (10) as they apply for the purposes of that section.*
- 16: Investigations by the appropriate authority on its own behalf**
- (A1) *This paragraph applies if the appropriate authority, acting in accordance with paragraph 6(2A) or in response to a recommendation under paragraph 6A(6)(b), is to make arrangements for a complaint to be investigated by the appropriate authority on its own behalf.*
- (1) This paragraph also applies if the appropriate authority is required by virtue of—
- (a) ~~any determination made by that authority under paragraph 6(3) (whether following the recording of a complaint or on a reference back under paragraph 5(2)) or under paragraph 8(4), or~~
 - (b) any determination made by the Commission Director General under paragraph 15,
to make arrangements for a complaint, recordable conduct matter or DSI matter to be investigated by the appropriate authority on its own behalf.
- (2) This paragraph also applies if—

- (a) a determination falls to be made by that authority under paragraph 10(4D), 11(3E) or 14(2) in relation to any recordable conduct matter or under paragraph 14D(2) in relation to any DSI matter; and
- (b) the appropriate authority determine that it is necessary for the matter to be investigated by the authority on its own behalf.

(3) Subject to sub-paragraph (4) or (5), it shall be the duty of the appropriate authority to appoint—

- (a) a person serving with the police (whether under the direction and control of the chief officer of police of the relevant force or of the chief officer of another force), or
- [(b) and (c) repealed]
- (d) a National Crime Agency officer,

to investigate the complaint or matter.

(4) The person appointed under this paragraph to investigate any complaint or conduct matter —

- (a) in the case of an investigation relating to any conduct of a chief officer, must not be a person under that chief officer's direction and control; and
- (b) in the case of an investigation relating to any conduct of the Commissioner of Police of the Metropolis or of the Deputy Commissioner of Police of the Metropolis, must be the person nominated by the Secretary of State for appointment under this paragraph.

(5) The person appointed under this paragraph to investigate any DSI matter—

- (a) in relation to which the relevant officer is a chief officer, must not be a person under that chief officer's direction and control;
- (b) in relation to which the relevant officer is the Commissioner of Police of the Metropolis or the Deputy Commissioner of Police of the Metropolis, must be the person nominated by the Secretary of State for appointment under this paragraph.

17: Investigations supervised by the Commission

(1) This paragraph applies where the Commission has determined that it should supervise the investigation by the appropriate authority of any complaint, recordable conduct matter or DSI matter.

(2) On being given notice of that determination, the appropriate authority shall, if it has not already done so, appoint—

- (a) a person serving with the police (whether under the direction and control of the chief officer of police of the relevant force or of the chief officer of another force), [(b) and (c) repealed]
- (d) a National Crime Agency officer,

to investigate the complaint or matter.

(3) The Commission may require that no appointment is made under sub-paragraph (2) unless it has given notice to the appropriate authority that it approves the person whom that authority proposes to appoint.

(4) Where a person has already been appointed to investigate the complaint or matter, or is selected under this sub-paragraph for appointment, and the Commission is not satisfied with that person, the Commission may require the appropriate authority, as soon as reasonably practicable after being required to do so—

- (a) to select another person falling within sub-paragraph (2)(a), (b) or (c) to investigate the complaint or matter; and
- (b) to notify the Commission of the person selected.

(5) Where a selection made in pursuance of a requirement under sub-paragraph (4) has been notified to the Commission, the appropriate authority shall appoint that person to investigate the complaint or matter if, but only if, the Commission notifies the authority that it approves the appointment of that person.

(6) A person appointed under this paragraph to investigate any complaint or conduct matter—

- (a) in the case of an investigation relating to any conduct of a chief officer, must not be a person under that chief officer's direction and control; and
- (b) in the case of an investigation relating to any conduct of the Commissioner of Police of the Metropolis or of the Deputy Commissioner of Police of the Metropolis, must be the person nominated by the Secretary of State for appointment under this paragraph.

(6A) The person appointed under this paragraph to investigate any DSI matter—

- (a) in relation to which the relevant officer is a chief officer, must not be a person under that chief officer's direction and control;
- (b) in relation to which the relevant officer is the Commissioner of Police of the Metropolis or the Deputy Commissioner of Police of the Metropolis, must be the person nominated by the Secretary of State for appointment under this paragraph.

(7) The person appointed to investigate the complaint or matter shall comply with all such requirements in relation to the carrying out of that investigation as may, in accordance with regulations made for the purposes of this sub-paragraph by the Secretary of State, be imposed by the Commission in relation to that investigation.

18: Investigations managed directed by the Commission Director General

(1) This paragraph applies where the Commission Director General has determined that it the Director General should manage direct the investigation

by the appropriate authority of any complaint, recordable conduct matter or DSI matter.

~~(2) Sub-paragraphs (2) to (6A) of paragraph 17 shall apply as they apply in the case of an investigation which the Commission has determined is one that it should supervise.~~

(2) *On being given notice of that determination, the appropriate authority shall, if it has not already done so, appoint—*

(a) *a person serving with the police (whether under the direction and control of the chief officer of police of the relevant force or of the chief officer of another force), or*

(b) *a National Crime Agency officer, to investigate the complaint or matter.*

(2A) *The Director General may require that no appointment is made under sub-paragraph (2) unless it the Director General has given notice to the appropriate authority that it the Director General approves the person whom that authority proposes to appoint.*

(2B) *Where at any time the Director General is not satisfied with the person investigating, the Director General may require the appropriate authority, as soon as reasonably practicable after being required to do so—*

(a) *to select another person falling within sub-paragraph (2)(a) or (b) to investigate the complaint or matter, and*

(b) *to notify the Director General of the person selected.*

(2C) *Sub-paragraph (2B) applies whether the person investigating was appointed—*

(a) *before the appropriate authority was given notice of the Director General's determination that the Director General should direct the investigation by the appropriate authority,*

(b) *under sub-paragraph (2) (including where the appointment was approved by the Director General in accordance with sub-paragraph (2A)), or*

(c) *under sub-paragraph (2D)(a).*

(2D) *Where a selection made in pursuance of a requirement under sub-paragraph (2B) has been notified to the Director General—*

(a) *the appropriate authority shall appoint that person to investigate the complaint or matter if, but only if, the Director General notifies the authority that it the Director General approves the appointment of that person;*

(b) *if the Director General notifies the authority that it the Director General does not approve the appointment of that person, the appropriate authority must make another selection in accordance with sub-paragraph (2B).*

(2E) *A person appointed under this paragraph to investigate any complaint or conduct matter—*

- (a) *in the case of an investigation relating to any conduct of a chief officer, must not be a person under that chief officer's direction and control, and*
- (b) *in the case of an investigation relating to any conduct of the Commissioner of Police of the Metropolis or of the Deputy Commissioner of Police of the Metropolis, must be a person nominated by the Secretary of State for appointment under this paragraph (and approved for appointment in accordance with sub-paragraph (2A) (if required) or (2D)(a)).*

- (2F) A person appointed under this paragraph to investigate any DSI matter—
- (a) *in relation to which the relevant officer is a chief officer, must not be a person under that chief officer's direction and control, and*
 - (b) *in relation to which the relevant officer is the Commissioner of Police of the Metropolis or the Deputy Commissioner of Police of the Metropolis, must be a person nominated by the Secretary of State for appointment under this paragraph (and approved for appointment in accordance with sub-paragraph (2A) (if required) or (2D)(a)).*

(3) The person appointed to investigate the complaint or matter shall, in relation to that investigation, be under the direction and control of the ~~Commission Director General~~.

(4) *The person appointed to investigate the complaint or matter shall keep the Director General informed of the progress of the investigation.*

19: Investigations by the Commission Director General itself

(1) This paragraph applies where the ~~Commission Director General~~ has determined that ~~it~~ the Director General should itself carry out the investigation of a complaint, recordable conduct matter or DSI matter.

(2) ~~The Commission shall designate both—~~

- ~~(a) a member of the Commission's staff to take charge of the investigation on behalf of the Commission, and~~
- ~~(b) all such other members of the Commission's staff as are required by the Commission to assist him.~~

(2) *The Director General must designate both—*

- (a) a person to take charge of the investigation, and*
- (b) such members of the Office's staff as are required by the Director General to assist the person designated to take charge of the investigation.*

(2A) *The person designated under sub-paragraph (2) to take charge of an investigation must be—*

- (a) the Director General acting personally, or*
- (b) a person who is authorised to exercise the function of taking charge of the investigation on behalf of the Director General by virtue of paragraph 6A of Schedule 2 (delegation of Director General's functions).*

(3) The person designated under sub-paragraph (2) to be the person to take charge of an investigation relating to any conduct of the Commissioner of Police of the Metropolis or of the Deputy Commissioner of Police of the Metropolis must be the person nominated by the Secretary of State to be so designated under that sub-paragraph.

(3A) The person designated under sub-paragraph (2) to be the person to take charge of an investigation of a DSI matter in relation to which the relevant officer is the Commissioner of Police of the Metropolis or the Deputy Commissioner of Police of the Metropolis must be the person nominated by the Secretary of State to be so designated under that sub-paragraph.

(4) A ~~member of the Commission's staff~~ person who—

- (a) is designated under sub-paragraph (2) in relation to any investigation, but
- (b) does not already, by virtue of section 97(8) of the 1996 Act, have all the powers and privileges of a constable throughout England and Wales and the adjacent United Kingdom waters,

shall, for the purposes of the carrying out of the investigation and all purposes connected with it, have all those powers and privileges throughout England and Wales and those waters.

(5) A ~~member of the Commission's staff~~ person designated under sub-paragraph (2) who is not a constable shall not, as a result of sub-paragraph (4), be treated as being in police service for the purposes of—

- (a) section 280 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52) (person in police service excluded from definitions of “worker” and “employee”); or
- (b) section 200 of the Employment Rights Act 1996 (c. 18) (certain provisions of that Act not to apply to persons in police service).

(6) The Secretary of State may by order provide that—

- (a) such provisions of the 1984 Act relating to investigations of offences conducted by police officers as may be specified in the order, and
- (b) such provisions of a code of practice under section 60, 60A or 66 of that Act as may be so specified,

shall apply, subject to such modifications as may be so specified, to investigations of offences conducted by virtue of this paragraph by ~~members of the Commission's staff~~ persons designated under sub-paragraph (2).

(6A) An order under sub-paragraph (6) may, in particular, provide that where a provision applied by the order allows a power to be exercised only if an authorisation is given by a police officer of or above a particular rank, the authorisation may be given by a ~~member of the Commission's staff~~ the Director General or a member of the Office's staff of or above a specified grade.

(7) References in this paragraph to the powers and privileges of a constable—

- (a) are references to any power or privilege conferred by or under any enactment (including one passed after the passing of this Act) on a constable; and
- ~~(aa) a body required by section 26BA to enter into an agreement with the Commission, or~~
- (b) shall have effect as if every such power were exercisable, and every such privilege existed, throughout England and Wales and the adjacent United Kingdom waters (whether or not that is the case apart from this sub-paragraph).

(8) In this paragraph “United Kingdom waters” means the sea and other waters within the seaward limits of the United Kingdom's territorial sea.

19ZA: Investigations by the Commission Director General: power to serve information notice

- (1) The Commission Director General may serve upon any person an information notice requiring the person to provide it *the Director General* with information that *the Director General* reasonably requires for the purposes of an investigation in accordance with paragraph 19.
- (2) But an information notice must not require a person—
 - (a) to provide information that might incriminate the person;
 - (b) to provide an item subject to legal privilege within the meaning of the Police and Criminal Evidence Act 1984 (see section 10 of that Act);
 - (c) to make a disclosure that would be prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000;
 - (d) to provide information that was provided to the person by, or by an agency of, the government of a country or territory outside the United Kingdom where that government does not consent to the disclosure of the information.
- (3) Neither must an information notice require a postal or telecommunications operator (within the meaning of Chapter 2 of Part 1 of the Regulation of Investigatory Powers Act 2000) to provide communications data (within the meaning of that Chapter).
- (4) An information notice must—
 - (a) specify or describe the information that is required by the Commission Director General and the form in which it must be provided;
 - (b) specify the period within which the information must be provided;
 - (c) give details of the right of appeal against the information notice under paragraph 19ZC.
- (5) The period specified under sub-paragraph (4)(b) must not end before the end of the period within which an appeal can be brought against the notice and, if such an appeal is brought, the information need not be provided pending the determination or withdrawal of the appeal.

(6) The Commission Director General may cancel an information notice by written notice to the person on whom it was served.

19ZB: Failure to comply with information notice

(1) If a person who has received an information notice—

- (a) fails or refuses to provide the information required by the notice, or
- (b) knowingly or recklessly provides information in response to the notice that is false in a material respect,

the Commission Director General may certify in writing to the High Court that the person has failed to comply with the information notice.

(2) The High Court may then inquire into the matter and, after hearing any witness who may be produced against or on behalf of the person, and after hearing any statement offered in defence, deal with the person as if the person had committed a contempt of court.

19ZC: Appeals against information notices

(1) A person on whom an information notice is served may appeal against the notice to the First-tier Tribunal on the ground that the notice is not in accordance with the law.

(2) If the Tribunal considers that the notice is not in accordance with the law—

- (a) it must quash the notice, and
- (b) it may give directions to the Commission Director General in relation to the service of a further information notice.

19ZD: Sensitive information: restriction on further disclosure

(1) Where the Commission receives information within sub-paragraph (2) under an information notice, it must not disclose (whether under section 11, 20 or 21 or otherwise) the information, or the fact that it has received it, unless the relevant authority consents to the disclosure.

(2) The information is—

- (a) intelligence service information,
- (b) intercept information, or
- (c) information obtained (directly or indirectly) from a government department which, at the time it is provided to the Commission, is identified by the department as information the disclosure of which may, in the opinion of the relevant authority, cause damage to
 - (i) national security or international relations, or
 - (ii) the economic interests of the United Kingdom or any part of the United Kingdom.

(3) Where the Commission discloses to another person information within sub-paragraph (2), or the fact that it has received it, that person must not disclose that information or that fact unless the relevant authority consents to the disclosure.

(4) In this paragraph—

“government department” means a department of Her Majesty's Government but does not include—

- (a) the Security Service,
- (b) the Secret Intelligence Service, or
- (c) the Government Communications Headquarters (“GCHQ”);

“intelligence service information” means information which was obtained (directly or indirectly) from an intelligence service or which relates to an intelligence service;

“intelligence service” means—

- (a) the Security Service,
- (b) the Secret Intelligence Service,
- (c) GCHQ, or
- (d) any part of Her Majesty's forces (within the meaning of the Armed Forces Act 2006), or of the Ministry of Defence, which engages in intelligence activities;

“intercept information” means information relating to any of the matters mentioned in section 19(3) of the Regulation of Investigatory Powers Act 2000;

“Minister of the Crown” includes the Treasury;

“relevant authority” means—

- (a) in the case of intelligence service information obtained from the Security Service, the Director-General of the Security Service;
- (b) in the case of intelligence service information obtained from the Secret Intelligence Service, the Chief of the Secret Intelligence Service;
- (c) in the case of intelligence service information obtained from GCHQ, the Director of GCHQ;
- (d) in the case of intelligence service information obtained from Her Majesty's forces or the Ministry of Defence, the Secretary of State;
- (e) in the case of intercept information, the person to whom the relevant interception warrant is or was addressed;
- (f) in the case of information within sub-paragraph (2)(c)—
 - (i) the Secretary of State, or
 - (ii) the Minister of the Crown in charge of the government department from which the information was obtained (if that Minister is not a Secretary of State);

“relevant interception warrant” means the interception warrant issued under section 5 of the Regulation of Investigatory Powers Act 2000 that relates to the intercept information.

19ZE: Investigations by the Director General: power of seizure

(1) The powers conferred by this paragraph are exercisable by a person—

- (a) who is designated under paragraph 19(2) in relation to an investigation (the “designated person”), and
- (b) who is lawfully on any premises for the purposes of the investigation.

- (2) *The designated person may seize anything which is on the premises if the designated person has reasonable grounds for believing—*
- (a) *that it is evidence relating to the conduct or other matter to which the investigation relates, and*
 - (b) *that it is necessary to seize it in order to prevent the evidence being concealed, lost, altered or destroyed.*
- (3) *The designated person may require any information which is stored in any electronic form and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible, or from which it can readily be produced in a visible and legible form, if the designated person has reasonable grounds for believing—*
- (a) *that it is evidence relating to the conduct or other matter to which the investigation relates, and*
 - (b) *that it is necessary to do so in order to prevent the evidence being concealed, lost, tampered with or destroyed.*
- (4) *The powers conferred by this paragraph do not authorise the seizure of an item which the designated person exercising the power has reasonable grounds for believing to be an item subject to legal privilege within the meaning of the 1984 Act (see section 10 of that Act).*
- (5) *Where a designated person has the power to seize a thing or require information to be produced under this paragraph and under section 19 of the 1984 Act (by virtue of section 97(8) of the 1996 Act or paragraph 19(4)), the designated person is to be treated for all purposes as acting in exercise of the power conferred by section 19 of the 1984 Act.*
- (6) *In this paragraph “premises” has the same meaning as in the 1984 Act (see section 23 of that Act).*

Further provision about seizure under paragraph 19ZE

- 19ZF (1) *This paragraph applies where a designated person seizes anything under paragraph 19ZE(2).*
- (2) *The designated person must provide a notice in relation to the thing seized if requested to do so by a person showing himself—*
- (a) *to be the occupier of the premises on which it was seized, or*
 - (b) *to have had custody or control of it immediately before the seizure.*
- (3) *The notice must state what has been seized and the reason for its seizure.*
- (4) *The notice must be provided within a reasonable time from the making of the request for it.*
- (5) *In this paragraph “designated person” has the same meaning as in paragraph 19ZE.*

Investigations by the Director General: power of retention

19ZG (1) This paragraph applies to anything which, for the purposes of an investigation in accordance with paragraph 19—

- (a) has been seized under paragraph 19ZE(2) or taken away following a requirement imposed under paragraph 19ZE(3), or*
- (b) is otherwise lawfully in the possession of the Director General.*

(2) Anything to which this paragraph applies may be retained by the Director General for as long as is necessary in all the circumstances, including (amongst other things) so that it may be used as evidence in criminal or disciplinary proceedings or in an inquest held under Part 1 of the Coroners and Justice Act 2009.

(3) For the purposes of sub-paragraph (2), the retention of anything to which this paragraph applies is not necessary if having a photograph or copy of the thing would suffice (and the Director General may arrange for the thing to be photographed or copied before it ceases to be retained).

Further provision about things retained under paragraph 19ZG

19ZH (1) This paragraph applies to anything which—

- (a) has been seized (whether under paragraph 19ZE(2) or otherwise), and*
- (b) is being retained by the Director General under paragraph 19ZG.*

(2) If a request for permission to be granted access to a thing to which this paragraph applies is made to the Director General by—

- (a) a person who had custody or control of the thing immediately before it was seized, or*
- (b) someone acting on behalf of such a person, the Director General must allow the person who made the request access to it under the supervision of a member of the Office's staff.*

(3) Sub-paragraph (4) applies if a request for a photograph or copy of a thing to which this paragraph applies is made to the Director General by—

- (a) a person who had custody or control of the thing immediately before it was seized, or*
- (b) someone acting on behalf of such a person.*

(4) The Director General must either—

- (a) allow the person who made the request access to the thing under the supervision of a member of the Office's staff for the purpose of photographing or copying it, or*
- (b) arrange for the thing to be photographed or copied.*

(5) If the Director General acts under sub-paragraph (4)(b), the Director General must supply the photograph or copy to the person who made the request within a reasonable time from the making of the request.

- (6) The Director General is not obliged to do anything in response to a request under sub-paragraph (2) or (3) if the Director General has reasonable grounds for believing that to do so would prejudice—
- (a) any investigation being carried out in accordance with this Schedule, or
 - (b) any criminal or disciplinary proceedings or any inquest held under Part 1 of the Coroners and Justice Act 2009.

~~19A: Special procedure where investigation relates to police officer or special constable~~

~~Paragraphs 19B to 19E apply to investigations of complaints or recordable conduct matters in cases where the person concerned (see paragraph 19B(11)) is a member of a police force or a special constable.~~

~~19B: Assessment of seriousness of conduct under investigation~~

~~(1) If, during the course of an investigation of a complaint, it appears to the person investigating that there is an indication that a person to whose conduct the investigation relates may have~~

- ~~(a) committed a criminal offence, or~~
- ~~(b) behaved in a manner which would justify the bringing of disciplinary proceedings,~~

~~the person investigating must certify the investigation as one subject to special requirements.~~

~~(2) If the person investigating a complaint certifies the investigation as one subject to special requirements, the person must, as soon as is reasonably practicable after doing so, make a severity assessment in relation to the conduct of the person concerned to which the investigation relates.~~

~~(3) The person investigating a recordable conduct matter must make a severity assessment in relation to the conduct to which the investigation relates—~~

- ~~(a) as soon as is reasonably practicable after his appointment or designation, or~~
- ~~(b) in the case of a matter recorded in accordance with paragraph 21A(5) or 24B(2), as soon as is reasonably practicable after it is so recorded.~~

~~(4) For the purposes of this paragraph a “severity assessment”, in relation to conduct, means an assessment as to—~~

- ~~(a) whether the conduct, if proved, would amount to misconduct or gross misconduct, and~~
- ~~(b) if the conduct were to become the subject of disciplinary proceedings, the form which those proceedings would be likely to take.~~

~~(5) An assessment under this paragraph may only be made after consultation with the appropriate authority.~~

(6) On completing an assessment under this paragraph, the person investigating the complaint or matter must give a notification to the person concerned that complies with sub-paragraph (7).

(7) The notification must—

- (a) give the prescribed information about the results of the assessment;
- (b) give the prescribed information about the effect of paragraph 19C and of regulations under paragraph 19D;
- (c) set out the prescribed time limits for providing the person investigating the complaint or matter with relevant statements and relevant documents respectively for the purposes of paragraph 19C(2);
- (d) give such other information as may be prescribed.

(8) Sub-paragraph (6) does not apply for so long as the person investigating the complaint or matter considers that giving the notification might prejudice—

- (a) the investigation, or
- (b) any other investigation (including, in particular, a criminal investigation).

(9) Where the person investigating a complaint or matter has made a severity assessment and considers it appropriate to do so, the person may revise the assessment.

(10) On revising a severity assessment, the person investigating the complaint or matter must notify the prescribed information about the revised assessment to the person concerned.

(11) In this paragraph and paragraphs 19C to 19E—
“the person concerned”

- (a) in relation to an investigation of a complaint, means the person in respect of whom it appears to the person investigating that there is the indication mentioned in paragraph 19B(1);
- (b) in relation to an investigation of a recordable conduct matter, means the person to whose conduct the investigation relates;

“relevant document”—

- (a) means a document relating to any complaint or matter under investigation, and
- (b) includes such a document containing suggestions as to lines of inquiry to be pursued or witnesses to be interviewed;

“relevant statement” means an oral or written statement relating to any complaint or matter under investigation.

19C: Duty to consider submissions from person whose conduct is being investigated

(1) This paragraph applies to—

- (a) an investigation of a complaint that has been certified under paragraph 19B(1) as one subject to special requirements, or
- (b) an investigation of a recordable conduct matter.

(2) If before the expiry of the appropriate time limit notified in pursuance of paragraph 19B(7)(c)—

- (a) the person concerned provides the person investigating the complaint or matter with a relevant statement or a relevant document, or
- (b) any person of a prescribed description provides that person with a relevant document,

that person must consider the statement or document.

19D: Interview of person whose conduct is being investigated

(1) The Secretary of State may by regulations make provision as to the procedure to be followed in connection with any interview of the person concerned which is held during the course of an investigation within paragraph 19C(1)(a) or (b) by the person investigating the complaint or matter.

(2) Regulations under this paragraph may, in particular, make provision—
(za) requiring the person concerned to attend an interview,
(a) for determining how the time at which an interview is to be held is to be agreed or decided,
(b) about the information that must be provided to the person being interviewed,
(c) for enabling that person to be accompanied at the interview by a person of a prescribed description.

19E: Duty to provide certain information to appropriate authority

(1) This paragraph applies during the course of an investigation within paragraph 19C(1)(a) or (b).

(2) The person investigating the complaint or matter must supply the appropriate authority with such information in that person's possession as the authority may reasonably request for the purpose mentioned in sub-paragraph (3).

(3) That purpose is determining, in accordance with regulations under section 50 or 51 of the 1996 Act, whether the person concerned should be, or should remain, suspended—

- (a) from office as constable, and
- (b) where that person is a member of a police force, from membership of that force.

19A(1) This paragraph applies to an investigation where condition A, B or C is satisfied.

(2) Condition A is that—

- (a) the investigation is an investigation of a complaint, and
- (b) during the course of the investigation it appears to the person investigating or, in the case of an investigation by a designated

person under paragraph 19, the Director General, that there is an indication that a member of a police force, or a special constable, 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.

(3) *Condition B is that—*

- (a) *the investigation is an investigation of a complaint being carried out by a person appointed under paragraph 18, and*
- (b) *during the course of the investigation the Commission Director General determines that there is an indication that a member of a police force, or a special constable, 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.*

(4) *Condition C is that—*

- (a) *the investigation is an investigation of a recordable conduct matter, and*
- (b) *the investigation relates to the conduct of a member of a police force or a special constable.*

(5) *Where this paragraph applies to an investigation the person investigating must proceed with the investigation in accordance with regulations made by the Secretary of State under this sub-paragraph.*

(6) *Regulations under sub-paragraph (5) may (amongst other things) make provision—*

- (a) *as to the procedure to be followed in connection with any interview of the person concerned, including provision requiring the person concerned to attend an interview;*
- (b) *requiring the person investigating to supply information to the appropriate authority.*

(7) *In this paragraph “the person concerned”—*

- (a) *in relation to an investigation of a complaint, means the person in respect of whom it appears to the person investigating or, in the case of an investigation by a designated person under paragraph 19, the Director General, that there is the indication mentioned in sub-paragraph (2)(b) or (as the case may be) the person in respect of whom the Director General determines that there is the indication mentioned in sub-paragraph (3)(b);*
- (b) *in relation to an investigation of a recordable conduct matter, means the person to whose conduct the investigation relates.*

19F: Interview of persons serving with the police etc during certain investigations

(1) This paragraph applies to an investigation of a complaint, recordable conduct matter or DSI matter which—

- (a) is carried out by the appropriate authority under the management direction of the Commission Director General, or
 - (b) is carried out by the Commission itself a person designated under paragraph 19 (investigations by Director General).
- (2) The Secretary of State may by regulations make provision as to the procedure to be followed in connection with an interview which—
 - (a) is held with a serving officer during the course of the investigation by the person investigating the complaint or matter other than, *in the case of an investigation to which paragraph 19A applies, a serving officer who is the person concerned in relation to the investigation (within the meaning of paragraph 19A)*, and
 - (b) ~~is not within paragraph 19D(1)~~.
- (3) Regulations under sub-paragraph (2) may in particular make provision—
 - (a) requiring a serving officer to attend an interview,
 - (b) for determining how the time at which an interview is to be held is to be agreed or decided,
 - (c) about the information that must be provided to a serving officer being interviewed,
 - (d) for enabling a serving officer to be accompanied at the interview by a person of a prescribed description.
- (4) “Serving officer” means a person who—
 - (a) is serving with the police, or
 - (b) is serving with an additional police body.
- (5) A person is serving with an additional police body if the person is a member of, or is employed or otherwise engaged for the purposes of, that body (subject to sub-paragraph (6)).
- (6) The Secretary of State may by regulations provide, in relation to an additional police body, that a person is serving with that body only if the person—
 - (a) is a member of, or is employed or otherwise engaged for the purposes of, that body, and
 - (b) is of a prescribed description.
- (7) An “additional police body” means—
 - (a) a body of constables which is maintained by an authority other than a local policing body and is prescribed in regulations made by the Secretary of State under this sub-paragraph, or
 - (aa) a body required by section 26BA to enter into an agreement with the Commission Director General, or
 - (b) the National Crime Agency.
- (8) The Secretary of State must obtain the consent of the Northern Ireland Assembly before making provision in regulations under this paragraph which would be within the legislative competence of the Northern Ireland Assembly.

(9) But consent under sub-paragraph (8) is not required in relation to a provision if—

- (a) a Bill for an Act of the Northern Ireland Assembly containing the provision would require the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998, and
- (b) the provision does not affect, other than incidentally, a transferred matter (within the meaning of that Act).

(10) Nothing in this paragraph prevents or restricts the holding of interviews to which regulations under this paragraph do not apply during the course of any investigation under this Schedule.

20: Restrictions on proceedings pending the conclusion of an investigation

(1) No criminal or disciplinary proceedings shall be brought in relation to any matter which is the subject of an investigation in accordance with the provisions of this Schedule until—

- (a) ~~the appropriate authority has certified the case as a special case under paragraph 20B(3) or 20E(3), or~~
- (a) *the conduct to which the investigation relates has been certified in accordance with regulations under paragraph 20A, or*
- (b) a report on that investigation has been submitted to the Commission Director General or to the appropriate authority under paragraph 22 or 24A or, where under paragraph 19 the Director General has personally carried out the investigation, a report has been completed by the Director General.

~~(2) Nothing in this paragraph shall prevent the bringing of criminal or disciplinary proceedings in respect of any conduct at any time after the discontinuance of the investigation in accordance with the provisions of this Schedule which relates to that conduct.~~

(3) The restrictions imposed by this paragraph in relation to the bringing of criminal proceedings shall not apply to the bringing of criminal proceedings by the Director of Public Prosecutions in any case in which it appears to him that there are exceptional circumstances which make it undesirable to delay the bringing of such proceedings.

Accelerated procedure in special cases

20A

~~(1) If, at any time before the completion of his investigation, the person investigating a complaint or recordable conduct matter believes that the appropriate authority would, on consideration of the matter, be likely to consider that the special conditions are satisfied, he shall proceed in accordance with the following provisions of this paragraph.~~

~~(2) If the person was appointed under paragraph 16, he shall submit to the appropriate authority—~~

(a) a statement of his belief and the grounds for it; and
(b) a written report on his investigation to that point;
and if he was appointed following a determination made by the Commission under paragraph 15 he shall send a copy of the statement and the report to the Commission.

(3) If the person was appointed under paragraph 17 or 18 or designated under paragraph 19, he shall submit to the appropriate authority—
(a) a statement of his belief and the grounds for it; and
(b) a written report on his investigation to that point;
and shall send a copy of the statement and the report to the Commission.

(4) A person submitting a report under this paragraph shall not be prevented by any obligation of secrecy imposed by any rule of law or otherwise from including all such matters in his report as he thinks fit, but this is subject to paragraph 19ZD (restriction on disclosure of sensitive information).

(5) A statement and report may be submitted under this paragraph whether or not a previous statement and report have been submitted; but a second or subsequent statement and report may be submitted only if the person submitting them has grounds to believe that the appropriate authority will reach a different determination under paragraph 20B(2) or 20E(2).

(6) After submitting a report under this paragraph, the person investigating the complaint or recordable conduct matter shall continue his investigation to such extent as he considers appropriate.

(7) The special conditions are that—

(a) there is sufficient evidence, in the form of written statements or other documents, to establish on the balance of probabilities that conduct to which the investigation relates constitutes gross misconduct;
(c) it is in the public interest for the person whose conduct it is to cease to be a member of a police force, or to be a special constable, without delay.

[Sub-paragraph (8) repealed]

(9) In paragraphs 20B to 20H “special report” means a report submitted under this paragraph.

Investigations managed or carried out by Commission: action by appropriate authority

20B

(1) This paragraph applies where—

(a) a statement and special report on an investigation carried out under the management of the Commission, or
(b) a statement and special report on an investigation carried out by a person designated by the Commission,
are submitted to the appropriate authority under paragraph 20A(3).

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

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

- ~~(a) certify the case as a special case for the purposes of regulations under section 50(3) or 51(2A) of the 1996 Act; and~~
- ~~(b) take such steps as are required by those regulations in relation to a case so certified.~~

~~[Sub-paragraphs (4) and (5) repealed]~~

~~(6) The appropriate authority shall notify the Commission of a certification under sub-paragraph (3).~~

~~(7) If the appropriate authority determines—~~

- ~~(a) that the special conditions are not satisfied, or~~
- ~~(b) that, although those conditions are satisfied, the circumstances are such as to make it inappropriate at present to bring disciplinary proceedings,~~

~~it shall submit to the Commission a memorandum under this sub-paragraph.~~

~~(8) The memorandum required to be submitted under sub-paragraph (7) is one which—~~

- ~~(a) notifies the Commission of its determination that those conditions are not satisfied or (as the case may be) that they are so satisfied but the circumstances are such as to make it inappropriate at present to bring disciplinary proceedings; and~~
- ~~(b) (in either case) sets out its reasons for so determining.~~

~~(9) In this paragraph “special conditions” has the meaning given by paragraph 20A(7).~~

Investigations managed or carried out by Commission: action by Commission

20C

~~(1) On receipt of a notification under paragraph 20B(6), the Commission shall give a notification—~~

- ~~(a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section 21; and~~
- ~~(b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.~~

~~(2) The notification required by sub-paragraph (1) is one setting out—~~

- (a) the findings of the special report;
- (b) the appropriate authority's determination under paragraph 20B(2); and
- (c) the action that the appropriate authority is required to take as a consequence of that determination.

(3) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the Commission by sub-paragraph (1) as they have effect in relation to the duties imposed on the Commission by that section.

(4) The Commission shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (1) notification of the findings of the special report by sending that person a copy of that report, except so far as—

- (a) regulations made by virtue of sub-paragraph (3) provide otherwise, or
- (b) the Commission is prevented from doing so by paragraph 19ZD (restriction on disclosure of sensitive information).

20D

(1) On receipt of a memorandum under paragraph 20B(7), the Commission shall—

- (a) consider the memorandum;
- (b) determine, in the light of that consideration, whether or not to make a recommendation under paragraph 20H; and
- (c) if it thinks fit to do so, make a recommendation under that paragraph.

(2) If the Commission determines not to make a recommendation under paragraph 20H, it shall notify the appropriate authority and the person investigating the complaint or matter of its determination.

Other investigations: action by appropriate authority

20E

(1) This paragraph applies where—

- (a) a statement and a special report on an investigation carried out by an appropriate authority on its own behalf, or
- (b) a statement and a special report on an investigation carried out under the supervision of the Commission,

are submitted to the appropriate authority under paragraph 20A(2) or (3).

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

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

- (a) certify the case as a special case for the purposes of regulations under section 50(3) or 51(2A) of the 1996 Act; and
- (b) take such steps as are required by those regulations in relation to a case so certified.

[Sub-paragraphs (4) and (5) repealed]

(6) Where the statement and report were required under paragraph 20A(2) to be copied to the Commission, the appropriate authority shall notify the Commission of a certification under sub-paragraph (3).

(7) If the appropriate authority determines—

- (a) that the special conditions are not satisfied, or
- (b) that, although those conditions are satisfied, the circumstances are such as to make it inappropriate at present to bring disciplinary proceedings,

it shall notify the person investigating the complaint or matter of its determination.

(8) In this paragraph “special conditions” has the meaning given by paragraph 20A(7).

20F

(1) If the appropriate authority certifies a case under paragraph 20E(3), it shall give a notification—

- (a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section 21; and
- (b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.

(2) The notification required by sub-paragraph (1) is one setting out—

- (a) the findings of the report;
- (b) the authority's determination under paragraph 20E(2); and
- (c) the action that the authority is required to take in consequence of that determination.

(3) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the appropriate authority by sub-paragraph (1) as they have effect in relation to the duties imposed on the appropriate authority by that section.

(4) Except so far as may be otherwise provided by regulations made by virtue of sub-paragraph (3), the appropriate authority shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (1) notification of the findings of the special report by sending that person a copy of that report.

[Paragraph 20G repealed]

Special cases: recommendation or direction of Commission Director General

20H

(1) Where the appropriate authority has submitted, or is required to submit, a memorandum to the Commission under paragraph 20B(7), the Commission may make a recommendation to the appropriate authority that it should certify the case under paragraph 20B(3).

(2) If the Commission determines to make a recommendation under this paragraph, it shall give a notification—

- (a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section 21; and
- (b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.

(3) The notification required by sub-paragraph (2) is one setting out—

- (a) the findings of the special report; and
- (b) the Commission's recommendation under this paragraph.

(4) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the Commission by sub-paragraph (2) as they have effect in relation to the duties imposed on the Commission by that section.

(5) The Commission shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (2) notification of the findings of the special report by sending that person a copy of the report, except so far as—

- (a) regulations made by virtue of sub-paragraph (4) provide otherwise, or
- (b) the Commission is prevented from doing so by paragraph 19ZD (restriction on disclosure of sensitive information).

(6) It shall be the duty of the appropriate authority to notify the Commission whether it accepts the recommendation and (if it does) to certify the case and proceed accordingly.

(7) If, after the Commission has made a recommendation under this paragraph, the appropriate authority does not certify the case under paragraph 20B(3)—

- (a) the Commission may direct the appropriate authority so to certify it; and
- (b) it shall be the duty of the appropriate authority to comply with the direction and proceed accordingly.

(8) Where the Commission gives the appropriate authority a direction under this paragraph, it shall supply the appropriate authority with a statement of its reasons for doing so.

(9) The Commission may at any time withdraw a direction given under this paragraph.

(10) The appropriate authority shall keep the Commission informed of whatever action it takes in response to a recommendation or direction.

20I

(1) Where—

- (a) the Commission makes a recommendation under paragraph 20H in the case of an investigation of a complaint, and
- (b) the appropriate authority notifies the Commission that the recommendation has been accepted,

the Commission shall notify the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21 of that fact and of the steps that have been, or are to be, taken by the appropriate authority to give effect to it.

(2) Where in the case of an investigation of a complaint the appropriate authority—

- (a) notifies the Commission that it does not accept the recommendation made by the Commission under paragraph 20H, or
 - (b) fails to certify the case under paragraph 20B(3) and to proceed accordingly,
- it shall be the duty of the Commission to determine what (if any) further steps to take under paragraph 20H.

(3) It shall be the duty of the Commission to notify the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21—

- (a) of any determination under sub-paragraph (2) not to take further steps under paragraph 20H; and
- (b) where it determines under that sub-paragraph to take further steps under that paragraph, of the outcome of the taking of those steps.

20A(1) This paragraph applies where—

- (a) at any time before the completion of an investigation of a complaint or recordable conduct matter, the person investigating or, in the case of an investigation by a designated person under paragraph 19, the Director General, believes that the appropriate authority would, on consideration of the matter, be likely to consider that the conditions in sub-paragraph (2) are satisfied, or
- (b) at any time before the completion of an investigation of a complaint or recordable conduct matter being carried out by a person appointed under paragraph 18, the Director General determines that the

appropriate authority would, on consideration of the matter, be likely to consider that the conditions in sub-paragraph (2) are satisfied.

(2) *The conditions in this sub-paragraph are that—*

- (a) there is sufficient evidence, in the form of written statements or other documents, to establish on the balance of probabilities that conduct to which the investigation relates constitutes gross misconduct, and*
- (b) it is in the public interest for the person whose conduct it is to cease to be a member of a police force, or to be a special constable, without delay.*

(3) *Where this paragraph applies the person investigating, the appropriate authority and (where the person investigating is not also the Director General carrying out an investigation under paragraph 19 personally) the Director General must proceed in accordance with regulations made by the Secretary of State.*

(4) *Regulations under sub-paragraph (3) may (amongst other things) make provision—*

- (a) for the person investigating to continue the investigation (whether to its full extent or to such lesser extent as is provided) or to stop investigating;*
- (b) for the person investigating to submit a report on the investigation or, where the investigation is carried out under paragraph 19 by the Director General personally, finalise one, to a point before its completion (not being a report under paragraph 22);*
- (c) for the conduct to which the investigation relates to be certified for the purposes of paragraph 20(1)(a).*

21: Power to discontinue an investigation

~~(1) The Commission may by order require the discontinuance of the investigation of a complaint or matter if (whether on the application of the appropriate authority or otherwise) it appears to the Commission that—~~

- ~~(a) the complaint or matter is of a description specified in regulations made by the Secretary of State for the purposes of this paragraph, and~~
- ~~(b) discontinuance of the investigation is within the Commission's power.~~

~~(1A) The appropriate authority that is investigating a complaint or matter may discontinue the investigation if it appears to that authority that—~~

- ~~(a) the complaint or matter is of a description specified in regulations made by the Secretary of State for the purposes of this paragraph, and~~
- ~~(b) discontinuance of the investigation is not within the Commission's power.~~

~~(1B) For the purposes of this paragraph—~~

- (a) discontinuance of the investigation of a complaint is within the Commission's power if—
(i) the investigation is being undertaken by the appropriate authority on its own behalf and the complaint is one required to be referred to the Commission under paragraph 4; or
(ii) the investigation is under the supervision or management of the Commission;
- (b) discontinuance of the investigation of a matter other than a complaint is within the Commission's power if the investigation is under the supervision or management of the Commission.

(2) The Commission shall not discontinue any investigation that is being carried out in accordance with paragraph 19 except in such cases as may be authorised by regulations made by the Secretary of State.

(3) Where the Commission makes an order under this paragraph or discontinues an investigation being carried out in accordance with paragraph 19, it shall give notification of the discontinuance—

- (a) to the appropriate authority;
(b) to every person entitled to be kept properly informed in relation to the subject matter of the investigation under section 21; and
(c) in a case where the investigation that is discontinued is an investigation of a complaint, to the complainant.

(3A) Where the appropriate authority discontinues an investigation under subparagraph (1A), the appropriate authority shall give notification of the discontinuance—

- (a) to every person entitled to be kept properly informed in relation to the investigation under section 21; and
(b) in a case where the investigation that is discontinued is an investigation of a complaint, to the complainant.

(4) Where an investigation of a complaint, recordable conduct matter or DSI matter is discontinued in accordance with an order under sub-paragraph (1)

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- (a) the Commission may give the appropriate authority directions to do any such things as it is authorised to direct by regulations made by the Secretary of State;
(b) the Commission may itself take any such steps of a description specified in regulations so made as it considers appropriate for purposes connected with the discontinuance of the investigation; and
(c) subject to the preceding paragraphs, neither the appropriate authority nor the Commission shall take any further action in accordance with the provisions of this Schedule in relation to that complaint or matter.

(5) The appropriate authority shall comply with any directions given to it under sub-paragraph (4).

(6) Where an investigation of a complaint, recordable conduct matter or DSI matter is discontinued in accordance with sub-paragraph (1A)—

- (a) the appropriate authority may take any such steps of a description specified in regulations made by the Secretary of State as he or it considers appropriate for purposes connected with the discontinuance of the investigation; and
- (b) subject to the preceding paragraphs, neither the appropriate authority nor the Commission shall take any further action in accordance with the provisions of this Schedule in relation to that complaint or matter.

(7) The complainant shall have a right of appeal to the relevant appeal body against any decision by the appropriate authority under sub-paragraph (1A) to discontinue the investigation of the complaint.

(8) But the complainant has no right of appeal if the complaint relates to a direction and control matter.

(9) On an appeal under this paragraph, subject to sub-paragraphs (10) and (11), the relevant appeal body shall—

- (a) determine whether any decision taken by the appropriate authority under this paragraph should have been taken in the case in question; and
- (b) if the relevant appeal body finds in the complainant's favour, give such directions as the relevant appeal body thinks appropriate to the local policing body or chief officer as to the action to be taken for investigating the complaint;

and it shall be the duty of a local policing body or chief officer to comply with any directions given under paragraph (b).

(10) Sub-paragraph (9) does not apply in a case where a particular chief officer of police is—

- (a) the person in respect of whose decision an appeal is made under this paragraph, and
- (b) the relevant appeal body in relation to the appeal.

(11) In such a case—

- (a) the appeal shall determine whether any decision taken by the appropriate authority under this paragraph should have been taken in the case in question; and
- (b) if the appeal finds in the complainant's favour, the chief officer of police must take such action as the chief officer thinks appropriate for investigating the complaint.

21A: Procedure where conduct matter is revealed during investigation of DSI matter

(1) If during the course of an investigation of a DSI matter it appears to a person appointed under paragraph 18 or designated under paragraph 19 that

there is an indication that a person serving with the police (“the person whose conduct is in question”) may have—

- (a) committed a criminal offence, or
- (b) behaved in a manner which would justify the bringing of disciplinary proceedings,

he shall make a submission to that effect to the ~~Commission Director General~~.

(2) If, after considering a submission under sub-paragraph (1), the ~~Commission Director General~~ determines that there is such an indication, it the Director General shall—

- (a) notify the appropriate authority in relation to the DSI matter and (if different) the appropriate authority in relation to the person whose conduct is in question of its *the Director General's* determination; and
- (b) send to it (or each of them) a copy of the submission under sub-paragraph (1).

(2A) *If during the course of an investigation of a DSI matter being carried out by a person appointed under paragraph 18 the Director General determines (without there having been a submission under sub-paragraph (1)) that there is an indication that a person serving with the police (“the person whose conduct is in question”) may have—*

- (a) committed a criminal offence, or
- (b) behaved in a manner which would justify the bringing of disciplinary proceedings,

the Director General shall notify the appropriate authority in relation to the DSI matter and (if different) the appropriate authority in relation to the person whose conduct is in question of the Director General's determination.

(2B) *If during the course of an investigation of a DSI matter being carried out by a person designated under paragraph 19 the Director General determines that there is an indication that a person serving with the police (“the person whose conduct is in question”) may have—*

- (a) committed a criminal offence, or
- (b) behaved in a manner which would justify the bringing of disciplinary proceedings, *the Director General must proceed under sub-paragraph (2C).*

(2C) *The Director General must—*

- (a) *prepare a record of the determination,*
- (b) *notify the appropriate authority in relation to the DSI matter and (if different) the appropriate authority in relation to the person whose conduct is in question of the determination, and*
- (c) *send to it (or each of them) a copy of the record of the determination prepared under paragraph (a).*

(3) If during the course of an investigation of a DSI matter it appears to a person appointed under paragraph 16 or 17 that there is an indication that a person serving with the police (“the person whose conduct is in question”) may have—

- (a) committed a criminal offence, or

(b) behaved in a manner which would justify the bringing of disciplinary proceedings,
he shall make a submission to that effect to the appropriate authority in relation to the DSI matter.

(4) If, after considering a submission under sub-paragraph (3), the appropriate authority determines that there is such an indication, it shall—
(a) if it is not the appropriate authority in relation to the person whose conduct is in question, notify that other authority of its determination and send to that authority a copy of the submission under sub-paragraph (3); and
(b) notify the *Commission Director General* of its determination and send to *it the Director General* a copy of the submission under sub-paragraph (3).

(5) Where the appropriate authority in relation to the person whose conduct is in question—

- (a) is notified of a determination by the *Commission Director General* under sub-paragraph (2) or (2A),
- (aa) *is notified of a determination by the Director General under sub-paragraph (2C)*,
- (b) (in a case where it is also the appropriate authority in relation to the DSI matter) makes a determination under sub-paragraph (4), or
- (c) (in a case where it is not the appropriate authority in relation to the DSI matter) is notified by that other authority of a determination by it under sub-paragraph (4),

it shall record the matter under paragraph 11 as a conduct matter.

(6) Where a DSI matter is recorded under paragraph 11 as a conduct matter by virtue of sub-paragraph (5)—

- (a) the person investigating the DSI matter shall (subject to any determination made by the *Commission Director General* under paragraph 15(5) 15(5A) or (5B)) continue the investigation as if appointed or designated to investigate the conduct matter, and
- (b) the other provisions of this Schedule shall apply in relation to that matter accordingly.

22: Final reports on investigations: complaints, conduct matters and certain DSI matters

(1) This paragraph applies on the completion of an investigation of—

- (a) a complaint, or
- (b) a conduct matter

(2) A person appointed under paragraph 16 shall submit a report on his investigation to the appropriate authority.

(3) A person appointed under paragraph 17 or 18 shall—

- (a) submit a report on his investigation to the *Commission Director General*; and
- (b) send a copy of that report to the appropriate authority.

(4) In relation to a matter that was formerly a DSI matter but has been recorded as a conduct matter in pursuance of paragraph 21A(5), the references in sub-paragraphs (2) and (3) of this paragraph to the appropriate authority are references to—

- (a) the appropriate authority in relation to the DSI matter; and
- (b) (where different) the appropriate authority in relation to the person whose conduct is in question.

~~(5) A person designated under paragraph 19 as the person in charge of an investigation by the Commission itself shall submit a report on it to the Commission.~~

(5) A person designated under paragraph 19 as the person in charge of an investigation must—

- (a) *submit a report on the investigation to the Director General, or*
- (b) *where the person in charge of the investigation is the Director General acting personally, complete a report on the investigation.*

(6) A person submitting or, in the case of an investigation under paragraph 19 by the Director General personally, completing a report under this paragraph shall not be prevented by any obligation of secrecy imposed by any rule of law or otherwise from including all such matters in his report as he thinks fit.

(6A) Where a person would contravene section 21A by submitting, or (as the case may be) sending a copy of, a report in its entirety to the appropriate authority under sub-paragraph (2) or (3)(b), the person must instead submit, or send a copy of, the report after having removed or obscured the information which by virtue of section 21A the person must not disclose.

(7) The Secretary of State may by regulations make provision requiring a report on an investigation within paragraph 19C(1)(a) or (b) to which paragraph 19A applies—

- (a) to include such matters as are specified in the regulations;
- (b) to be accompanied by such documents or other items as are so specified.

(8) A person who has submitted or, in the case of an investigation under paragraph 19 by the Director General personally, completed a report under this paragraph on an investigation within paragraph 19C(1)(a) or (b) to which paragraph 19A applies must supply the appropriate authority with such copies of further documents or other items in that person's possession as the authority may request except so far as the person is prevented from doing so by section 21A.

(9) The appropriate authority may only make a request under sub-paragraph (8) in respect of a copy of a document or other item if the authority—

- (a) considers that the document or item is of relevance to the investigation, and

(b) requires a copy of the document or the item for either or both of the purposes mentioned in sub-paragraph (10).

(10) Those purposes are—

- (a) complying with any obligation under regulations under section 50(3) or 51(2A) of the 1996 Act which the authority has in relation to any person to whose conduct the investigation related;
- (b) ensuring that any such person receives a fair hearing at any disciplinary proceedings in respect of any such conduct of his.

23: Action by the Commission Director General in response relation to an investigation report

(1) This paragraph applies where—

- (a) a report on an investigation carried out under the ~~management direction~~ of the Commission Director General is submitted to it the Director General under sub-paragraph (3) of paragraph 22; or
- (b) a report on an investigation carried out by a person designated by the Commission Director General is submitted to it the Director General, or is otherwise completed, under sub-paragraph (5) of that paragraph.

(1A) But if, following the submission or completion of such a report, the Director General determines under section 13B that the complaint or recordable conduct matter is to be re-investigated the provisions of this paragraph other than sub-paragraph (2)(a) (read with sub-paragraph (2ZA)) do not apply, or cease to apply, in relation to that report.

(2) On receipt of the report (or on its completion by the Director General), the Commission Director General —

- (a) if it appears that the appropriate authority has not already been sent a copy of the report, shall send a copy of the report to that authority;
- (b) shall determine whether the conditions set out in sub-paragraphs (2A) and (2B) are satisfied in respect of the report;
- (c) if it the Director General determines that those conditions are so satisfied, shall notify the Director of Public Prosecutions of the determination and send him a copy of the report; and
- (d) shall notify the appropriate authority and the persons mentioned in sub-paragraph (5) of its the Director General's determination under paragraph (b) and of any action taken by it the Director General under paragraph (c).

(2ZA) Where the Director General would contravene section 21A by sending a copy of a report in its entirety to the appropriate authority under sub-paragraph (2)(a) or to the Director of Public Prosecutions under sub-paragraph (2)(c), the Director General must instead send a copy of the report after having removed or obscured the information which by virtue of section 21A the Director General must not disclose.

(2A) The first condition is that the report indicates that a criminal offence may have been committed by a person (*if any*) to whose conduct the investigation related.

(2B) The second condition is that—

- (a) the circumstances are such that, in the opinion of the *Commission Director General*, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions, or
- (b) any matters dealt with in the report fall within any prescribed category of matters.

(3) The Director of Public Prosecutions shall notify the *Commission Director General* of any decision of his to take, or not to take, action in respect of the matters dealt with in any report a copy of which has been sent to him under sub-paragraph (2)(c).

~~(4) It shall be the duty of the Commission to notify the persons mentioned in sub-paragraph (5) if criminal proceedings are brought against any person by the Director of Public Prosecutions in respect of any matters dealt with in a report copied to him under sub-paragraph (2)(c).~~

(5) The persons are—

- (a) in the case of a complaint, the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21; and
- (b) in the case of a recordable conduct matter, every person entitled to be kept properly informed in relation to that matter under that section.

(5A) *On receipt of the report (or on its completion by the Director General), the Director General shall also—*

(a) seek the views of the appropriate authority on—

- (i) whether any person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer,*
- (ii) whether or not any such person's performance is unsatisfactory, and*
- (iii) the other matters (if any) dealt with in the report (but not on whether the conditions in sub-paragraphs (2A) and (2B) are satisfied in respect of the report),*

(b) having considered the views (if any) of the appropriate authority, make a determination as to—

- (i) the matters described in paragraph (a)(i) and (ii), and*
- (ii) whether or not disciplinary proceedings should be brought against any person to whose conduct the investigation related and, if so, what form the disciplinary proceedings should take,*

(c) having considered the views (if any) of the appropriate authority and if the Director General considers it appropriate to do so, make a

determination as to any matter dealt with in the report, being a determination other than one that the Director General is required to make under sub-paragraph (2)(b) or paragraph (b) of this subparagraph,

(d) notify the appropriate authority of the Director General's determination under paragraph (b) and any determination under paragraph (c),

(e) where the Director General determines that disciplinary proceedings of a form specified in the determination should be brought against a person, direct the appropriate authority to bring those proceedings, and

(f) direct the appropriate authority to determine what action (if any) the appropriate authority will in its discretion take, not being action involving the bringing of disciplinary proceedings, in respect of the matters dealt with in the report and having regard to the Director General's determination under paragraph (b) and any determination under paragraph (c).

(5B) The appropriate authority must comply with a direction given under sub-paragraph (5A)(e) and must secure that the proceedings, once brought, are proceeded with to a proper conclusion.

(5C) The Director General may at any time withdraw a direction given under sub-paragraph (5A)(e); and sub-paragraph (5B) shall not impose any obligation in relation to any time after the withdrawal of the direction.

(5D) The appropriate authority must keep the Director General informed of the action it takes in response to a direction given under sub-paragraph (5A)(e).

(5E) The appropriate authority must comply with the direction given under sub-paragraph (5A)(f) and must notify the Director General of the determination it makes.

(5F) On receipt of the report (or on its completion by the Director General), where it is a report of an investigation of a complaint, the Director General may also make a recommendation under paragraph 28ZA.

(6) ~~On receipt of the report, the Commission shall also notify the appropriate authority that it must~~

~~(a) in accordance with regulations under section 50 or 51 of the 1996 Act, determine~~

~~(i) whether any person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer, and~~

~~(ia) whether or not any such person's performance is unsatisfactory, and~~

- (ii) what action (if any) the authority is required to, or will in its discretion, take in respect of the matters dealt with in the report, and
- (b) determine what other action (if any) the authority will in its discretion take in respect of those matters.

(7) On receipt of a notification under sub-paragraph (6) the appropriate authority shall make those determinations and submit a memorandum to the Commission which—

- (a) sets out the determinations the authority has made, and
- (b) if the appropriate authority has decided in relation to any person to whose conduct the investigation related that disciplinary proceedings should not be brought against that person, sets out its reasons for so deciding.

(8) On receipt of a memorandum under sub-paragraph (7), the Commission shall—

- (a) consider the memorandum and whether the appropriate authority has made the determinations under sub-paragraph (6)(a) that the Commission considers appropriate in respect of the matters dealt with in the report;
- (b) determine, in the light of its consideration of those matters, whether or not to make recommendations under paragraph 27; and
- (c) make such recommendations (if any) under that paragraph as it thinks fit.

(9) On the making of a determination under sub-paragraph (8)(b) the Commission shall give a notification—

- (a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section 21; and
- (b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.

(10) The notification required by sub-paragraph (9) is one setting out—

- (a) the findings of the report;
- (b) the Commission's determination under sub-paragraph (8)(b); and
- (c) the action which the appropriate authority is to be recommended to take as a consequence of the determination.

(11) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the Commission by sub-paragraph (9) of this paragraph as they have effect in relation to the duties imposed on the Commission by that section.

(12) The Commission shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (9) notification of the findings of the report by sending that person a copy of the report, except so far as—

- (a) regulations made by virtue of sub-paragraph (11) provide otherwise, or
(b) the Commission is prevented from doing so by paragraph 19ZD (restriction on disclosure of sensitive information).

(13) In relation to a DSI matter in respect of which a determination has been made under paragraph 21A(2), (2A), (2B) or (4), the references in this paragraph to the appropriate authority are references to the appropriate authority in relation to the person whose conduct is in question.

24: Action by the appropriate authority in response to an investigation report

(1) This paragraph applies where—

- (a) a report of an investigation is submitted to the appropriate authority in accordance with paragraph 22(2); or
(b) a copy of a report on an investigation carried out under the supervision of the Commission is sent to the appropriate authority in accordance with paragraph 22(3).

(2) On receipt of the report or (as the case may be) of the copy, the appropriate authority—

- (a) shall determine whether the conditions set out in sub-paragraphs (2A) and (2B) are satisfied in respect of the report;
(b) if it determines that those conditions are so satisfied, shall notify the Director of Public Prosecutions of the determination and send him a copy of the report; and
(c) shall notify the persons mentioned in sub-paragraph (5) of its determination under paragraph (a) and of any action taken by it under paragraph (b).

(2A) The first condition is that the report indicates that a criminal offence may have been committed by a person (*if any*) to whose conduct the investigation related.

(2B) The second condition is that—

- (a) the circumstances are such that, in the opinion of the appropriate authority, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions, or
(b) any matters dealt with in the report fall within any prescribed category of matters.

(3) The Director of Public Prosecutions shall notify the appropriate authority of any decision of his to take, or not to take, action in respect of the matters dealt with in any report a copy of which has been sent to him under sub-paragraph (2).

(4) It shall be the duty of the appropriate authority to notify the persons mentioned in sub-paragraph (5) if criminal proceedings are brought against

~~any person by the Director of Public Prosecutions in respect of any matters dealt with in a report copied to him under sub-paragraph (2)(b).~~

(5) The persons are—

- (a) in the case of a complaint, the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21; and
- (b) in the case of a recordable conduct matter, every person entitled to be kept properly informed in relation to that matter under that section.

~~(5A) In the case of a report falling within sub-paragraph (1)(b) which relates to a recordable conduct matter, the appropriate authority shall also notify the Commission of its determination under sub-paragraph (2)(a).~~

~~(5B) On receipt of such a notification that the appropriate authority has determined that the conditions in sub-paragraphs (2A) and (2B) are not satisfied in respect of the report, the Commission—~~

- ~~(a) shall make its own determination as to whether those conditions are so satisfied, and~~
- ~~(b) if it determines that they are so satisfied, shall direct the appropriate authority to notify the Director of Public Prosecutions of the Commission's determination and to send the Director a copy of the report.~~

~~(5C) It shall be the duty of the appropriate authority to comply with any direction given to it under sub-paragraph (5B).~~

(6) On receipt of the report or (as the case may be) copy, the appropriate authority shall also—

- (a) in accordance with regulations under section 50 or 51 of the 1996 Act, determine
 - (i) whether any person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer, and
 - (ia) whether or not any such person's performance is unsatisfactory, and
 - (ii) what action (if any) the authority is required to, or will in its discretion, take in respect of the matters dealt with in the report, and

(aa) if it considers it appropriate to do so, make a determination as to any matter dealt with in the report, being a determination other than one that it is required to make by sub-paragraph (2)(a) or paragraph (a) of this sub-paragraph, and

(b) determine what other action (if any) the authority will in its discretion take in respect of those matters.

(b) determine what action (if any), in addition to the action mentioned in paragraph (a)(ii), the authority will in its discretion take in respect of the matters dealt with in the report.

(6A) Where the report is a report of an investigation of a complaint and the appropriate authority is a local policing body, the appropriate authority may also, on receipt of the report, make a recommendation under paragraph 28ZA.

(6B) It shall be the duty of the appropriate authority—

(a) to take the action which it determines under sub-paragraph (6) that it is required to, or will in its discretion, take, and

(b) in a case where that action consists of or includes the bringing of disciplinary proceedings, to secure that those proceedings, once brought, are proceeded with to a proper conclusion.

~~(7) On the making of the determinations under sub-paragraph (6) the appropriate authority shall give a notification—~~

~~(a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section 21; and~~

~~(b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.~~

~~(8) The notification required by sub-paragraph (7) is one setting out—~~

~~(a) the findings of the report;~~

~~(b) the determinations the authority has made under sub-paragraph (6); and~~

~~{(c) repealed}~~

~~(d) the complainant's right of appeal under paragraph 25.~~

~~(9) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the appropriate authority by sub-paragraph (7) of this paragraph as they have effect in relation to the duties imposed on the appropriate authority by that section.~~

~~(10) Except so far as may be otherwise provided by regulations made by virtue of sub-paragraph (9), the appropriate authority shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (7) notification of the findings of the report by sending that person a copy of the report.~~

~~(11) In relation to a DSI matter in respect of which a determination has been made under paragraph 21A(2), (2A), (2B) or (4), the references in this paragraph to the appropriate authority are references to the appropriate authority in relation to the person whose conduct is in question.~~

24A: Final reports on investigations: other DSI matters

- (1) This paragraph applies on the completion of an investigation of a DSI matter in respect of which neither the ~~Commission Director General~~ nor the appropriate authority has made a determination under paragraph 21A(2), (2A), (2B) or (4).
- (2) The person investigating shall—
(a) submit a report on the investigation to the ~~Commission Director General~~; and
(b) send a copy of that report to the appropriate authority.
- (2A) *Sub-paragraph (2)(a) does not apply where the person investigating is the Director General carrying out an investigation personally under paragraph 19, but the Director General must complete a report on the investigation.*
- (3) A person submitting a report to the ~~Commission Director General~~ under this paragraph sub-paragraph (2) or completing one under sub-paragraph (2A) shall not be prevented by any obligation of secrecy imposed by any rule of law or otherwise from including all such matters in his report as he thinks fit.
- (3A) *Where a person would contravene section 21A by sending a copy of a report in its entirety to the appropriate authority under sub-paragraph (2)(b), the person must instead send a copy of the report after having removed or obscured the information which by virtue of section 21A the person must not disclose.*
- (4) On receipt of the report (or on its completion by the Director General), the ~~Commission Director General~~ shall determine whether the report indicates that a person serving with the police may have—
(a) committed a criminal offence, or
(b) behaved in a manner which would justify the bringing of disciplinary proceedings.
- (5) *On receipt of the report (or on its completion by the Director General), the Director General shall also, if the Director General considers it appropriate to do so, make a determination as to any matter dealt with in the report, being a determination other than one that the Director General is required to make under sub-paragraph (4) or that the appropriate authority may be required to make by virtue of paragraph 24C(3).*
- (6) *But sub-paragraphs (4) and (5) and paragraphs 24B and 24C do not apply, or cease to apply, in relation to a report submitted under sub-paragraph (2) or completed under sub-paragraph (2A) if, following the submission or completion of the report, the Director General determines under section 13B that the DSI matter is to be re-investigated.*

Action by the ~~Commission Director General~~ in response relation to an investigation report under paragraph 24A

24B (1) If the *Commission Director General* determines under paragraph 24A(4) that the report indicates that a person serving with the police may have—

- (a) committed a criminal offence, or
- (b) behaved in a manner which would justify the bringing of disciplinary proceedings,

it *the Director General* shall notify the appropriate authority in relation to the person whose conduct is in question of its *the Director General's* determination and, if it appears that that authority has not already been sent a copy of the report, send a copy of the report to that authority.

(1A) Sub-paragraph (3A) of paragraph 24A applies for the purposes of sub-paragraph (1) of this paragraph as it applies for the purposes of sub-paragraph (2)(b) of that paragraph.

(2) Where the appropriate authority in relation to the person whose conduct is in question is notified of a determination by the *Commission Director General* under sub-paragraph (1), it shall record the matter under paragraph 11 as a conduct matter.

(3) Where a DSI matter is recorded under paragraph 11 as a conduct matter by virtue of sub-paragraph (2)—

- (a) the person investigating the DSI matter shall (subject to any determination made by the *Commission Director General* under paragraph 15(5) or (5A) or (5B)) investigate the conduct matter as if appointed or designated to do so, and
- (b) the other provisions of this Schedule shall apply in relation to that matter accordingly.

24C (1) This paragraph applies where the *Commission Director General* determines under paragraph 24A(4) that there is no indication in the report that a person serving with the police may have—

- (a) committed a criminal offence, or
- (b) behaved in a manner which would justify the bringing of disciplinary proceedings.

[(2) repealed]

(3) The *Commission Director General* may notify the appropriate authority that it must, in accordance with regulations under section 50 or 51 of the 1996 Act, determine—

- (a) whether or not the performance of a person serving with the police is unsatisfactory, and
- (b) what action (if any) the authority will take in respect of any such person's performance.

(4) On receipt of a notification under sub-paragraph (3) the appropriate authority shall make those determinations and submit a memorandum to the

Commission Director General setting out the determinations the authority has made.

(5) On receipt of a memorandum under sub-paragraph (4), the *Commission Director General* shall—

- (a) consider the memorandum and whether the appropriate authority has made the determinations under sub-paragraph (4) that the *Commission Director General* considers appropriate;
- (b) determine whether or not to make recommendations under paragraph 27;
- (c) make such recommendations (if any) under that paragraph as *the Director General* thinks fit.

25 Appeals Reviews with respect to an investigation

(1) This paragraph applies where a complaint has been subjected to—

- (a) an investigation by the appropriate authority on its own behalf; or
- (b) ~~an investigation under the supervision of the Commission.~~

(1A) But this paragraph does not apply where the person investigating submitted a report on the investigation under provision made by virtue of paragraph 20A(4)(b) and did not (as a result of provision made by virtue of paragraph 20A(4)(a)) submit a further report under paragraph 22(2).

(1B) Where this paragraph applies, the complainant has the right to apply to the relevant review body for a review of the outcome of the complaint.

(1C) The relevant review body must notify the following of an application for a review under sub-paragraph (1B)—

- (a) *the appropriate authority,*
- (b) *every person entitled to be kept properly informed in relation to the complaint under section 21, and*
- (c) *the person complained against (if any).*

~~(2) The complainant shall have the following rights of appeal to the relevant appeal body—~~

- ~~(a) a right to appeal on the grounds that he has not been provided with adequate information—~~
 - ~~(i) about the findings of the investigation; or~~
 - ~~(ii) about any determination of the appropriate authority relating to the taking (or not taking) of action in respect of any matters dealt with in the report on the investigation;~~
- ~~(b) a right to appeal against the findings of the investigation;~~
- ~~(ba) a right of appeal against any determination by the appropriate authority that a 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 or that such a person's performance is, or is not, unsatisfactory;~~

(c) a right of appeal against any determination by the appropriate authority relating to the taking (or not taking) of action in respect of any matters dealt with in the report; and
(d) a right of appeal against any determination by the appropriate authority under paragraph 24(2)(a) as a result of which it is not required to send the Director of Public Prosecutions a copy of the report;
and it shall be the duty of the relevant appeal body to notify the appropriate authority, every person entitled to be kept properly informed in relation to the complaint under section 21 and the person complained against of any appeal brought under this paragraph (except that the duty to notify the appropriate authority does not apply where that authority is the relevant appeal body).

(2ZA) But the complainant has no right of appeal if the complaint relates to a direction and control matter.

(2A) In sub-paragraph (2)—

- (a) references to the findings of an investigation do not include a reference to findings on a report submitted under paragraph 20A; and
- (b) references to the report of an investigation do not include a reference to a report submitted under that paragraph.

(3) On the bringing of an appeal under this paragraph, the Commission may require the appropriate authority to submit a memorandum to the Commission which—

- (za) sets out whether the appropriate authority has determined that a 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;
- (zb) sets out whether the appropriate authority has determined any such person's performance is, or is not, unsatisfactory;
- (a) sets out what action (if any) the authority has determined that it is required to or will, in its discretion, take in respect of the matters dealt with in the report;
- {(b) repealed}
- (c) if the appropriate authority has decided in relation to a person to whose conduct the investigation related that disciplinary proceedings should not be brought against that person, sets out its reasons for so deciding; and
- (d) if the appropriate authority made a determination under paragraph 24(2)(a) as a result of which it is not required to send the Director of Public Prosecutions a copy of the report, sets out the reasons for that determination;

and it shall be the duty of the appropriate authority to comply with any requirement under this sub-paragraph.

(4) Where the Commission so requires on the bringing of any appeal under this paragraph in the case of an investigation by the appropriate authority on its own behalf, the appropriate authority shall provide the Commission with a copy of the report of the investigation.

(4) Where the relevant review body so requires on the making of an application for a review under sub-paragraph (1B), the appropriate authority must provide the relevant review body with—

- (a) a copy of the report of the investigation, and
- (b) such information concerning the authority's determinations under paragraph 24 as is described in a notification given by the relevant review body to the authority.

(4A) On a review applied for under sub-paragraph (1B), the relevant review body must determine whether the outcome of the complaint is a reasonable and proportionate outcome.

(4B) In making a determination under sub-paragraph (4A), the relevant review body may review the findings of the investigation.

(4C) Where the Director General is the relevant review body and the Director General finds that the outcome is not a reasonable and proportionate outcome, the Director General may—

- (a) make the Director General's own findings (in place of, or in addition to, findings of the investigation);
- (b) direct that the complaint be re-investigated;
- (c) make a recommendation to the appropriate authority in respect of any person serving with the police—
 - (i) that the person has a case to answer in respect of misconduct or gross misconduct or has no case to answer in relation to the person's conduct to which the investigation related;
 - (ii) that the person's performance is, or is not, unsatisfactory;
 - (iii) that disciplinary proceedings of the form specified in the recommendation are brought against the person in respect of the person's conduct, efficiency or effectiveness to which the investigation related;
 - (iv) that any disciplinary proceedings brought against that person are modified so as to deal with such aspects of that conduct, efficiency or effectiveness as may be so specified;
- (d) make a recommendation under paragraph 28ZA.

(4D) Where the Director General makes a recommendation under sub-paragraph (4C)(c)—

- (a) the appropriate authority must notify the Director General whether it accepts the recommendation and (if it does) set out in the notification the steps that it is proposing to take to give effect to it, and
- (b) sub-paragraphs (4) to (8) and (9)(b) of paragraph 27 apply in relation to the recommendation as if it had been made under that paragraph.

(4E) Where a local policing body is the relevant review body and the local policing body finds that the outcome is not a reasonable and proportionate outcome, the local policing body may—

- (a) make a recommendation to the appropriate authority that the complaint be re-investigated by the authority on its own behalf;

(b) where the complaint has not previously been referred to the Director General under paragraph 4, make a recommendation to the appropriate authority that it refer the complaint to the Director General under sub-paragraph (2) of that paragraph;

(c) make a recommendation to the appropriate authority in respect of any person serving with the police—

(i) that the person has a case to answer in respect of misconduct or gross misconduct or has no case to answer in relation to the person's conduct to which the investigation related;

(ii) that the person's performance is, or is not, unsatisfactory;

(iii) that disciplinary proceedings of the form specified in the recommendation are brought against the person in respect of the person's conduct, efficiency or effectiveness to which the investigation related;

(iv) that any disciplinary proceedings brought against that person are modified so as to deal with such aspects of that conduct, efficiency or effectiveness as may be so specified;

(d) make a recommendation under paragraph 28ZA.

(4F) Sub-paragraph (4G) applies where, on a review applied for under sub-paragraph (1B), the relevant review body determines that the report of the investigation indicates that a criminal offence may have been committed by a person (if any) to whose conduct the investigation related and that—

(a) the circumstances are such that, in the opinion of the relevant review body, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions, or

(b) any matters dealt with in the report fall within any category of matters prescribed for the purposes of paragraph 24(2B)(b).

(4G) Where this sub-paragraph applies—

(a) if the Director General is the relevant review body, the Director General must notify the Director of Public Prosecutions of the determination under sub-paragraph (4F) and send the Director a copy of the report;

(b) if a local policing body is the relevant review body, the local policing body must make a recommendation to the appropriate authority that the appropriate authority—

(i) notify the Director of Public Prosecutions of the determination under sub-paragraph (4F), and

(ii) send the Director a copy of the report.

(4H) The Secretary of State may by regulations make further provision about recommendations under sub-paragraph (4E)(a), (b) or (c) or (4G)(b).

(4I) The regulations may (amongst other things) authorise the local policing body making the recommendation to require a response to the recommendation.

(4J) Where this paragraph applies because the person investigating submitted a report on the investigation under provision made by virtue of paragraph

~~20A(4)(b) ("the first report") and a further report under paragraph 22(2), the references in sub-paragraphs (4B) and (4C)(a) to the findings of the investigation do not include a reference to findings on the first report.~~

~~(5) On an appeal under this paragraph, the relevant appeal body shall determine such of the following as it considers appropriate in the circumstances—~~

- ~~(a) whether the complainant has been provided with adequate information about the matters mentioned in sub-paragraph (2)(a);~~
- ~~(b) whether the findings of the investigation need to be reconsidered;~~
- ~~(c) whether the appropriate authority—~~
 - ~~(i) has made such a determination as is mentioned in sub-paragraph (3)(za) or (zb) that the relevant appeal body considers to be appropriate in respect of the matters dealt with in the report, and~~
 - ~~(ii) has determined that it is required to or will, in its discretion, take the action (if any) that the relevant appeal body considers to be so appropriate; and~~
- ~~(d) whether the conditions set out in paragraph 24(2A) and (2B) are satisfied in respect of the report.~~

~~(6) If, on an appeal under this paragraph, the relevant appeal body determines that the complainant has not been provided with adequate information about any matter—~~

- ~~(a) in a case where the Commission is the relevant appeal body, the relevant appeal body shall give the appropriate authority all such directions as the Commission considers appropriate for securing that the complainant is properly informed; and~~
- ~~(b) in a case where the appropriate authority is the relevant appeal body, that authority shall take such steps as it considers appropriate for securing that the complainant is properly informed.~~

~~(7) Nothing in sub-paragraph (6)(a) shall authorise the Commission to require the disclosure of any information the disclosure of which to the appellant has been or is capable of being withheld by virtue of regulations made under section 20(5).~~

~~(8) If, on an appeal under this paragraph, the Commission determines that the findings of the investigation need to be reconsidered, in a case where the Commission is the relevant appeal body it shall either—~~

- ~~(a) review those findings without an immediate further investigation; or~~
 - ~~(b) direct that the complaint be re-investigated; and~~
- ~~in a case where the appropriate authority is the relevant appeal body, that authority shall re-investigate the complaint.~~

~~(9) If, on an appeal under this paragraph, the relevant appeal body determines that the appropriate authority has not made a determination as to whether there is a case for a person to whose conduct the investigation related to answer that the relevant appeal body considers appropriate, or determines that the appropriate authority has not made a determination as to~~

~~whether a person's performance is or is not unsatisfactory, or determines that the appropriate authority has not determined that it is required to or will, in its discretion, take the action in respect of the matters dealt with in the report that the relevant appeal body considers appropriate—~~

- ~~(a) sub-paragraph (9ZA) applies if the Commission is the relevant appeal body; or~~
- ~~(b) sub-paragraph (9ZB) applies if the chief officer of police is the relevant appeal body.~~

~~(9ZA) The Commission shall—~~

- ~~(a) determine, in the light of that determination, whether or not to make recommendations under paragraph 27; and~~
- ~~(b) make such recommendations (if any) under that paragraph as it thinks fit.~~

~~(9ZB) The chief officer of police shall take such action as the chief officer thinks appropriate in relation to the bringing of disciplinary proceedings in respect of the matters dealt with in the report.~~

~~(9ZC) If disciplinary proceedings are brought by virtue of sub-paragraph (9ZB), it shall be the duty of the appropriate authority to ensure that they are proceeded with to a proper conclusion.~~

~~(9A) If, on an appeal under this paragraph, the relevant appeal body determines that the conditions set out paragraph 24(2A) and (2B) are satisfied in respect of the report, in a case where the Commission is the relevant appeal body it shall direct the appropriate authority to, or in a case where the appropriate authority is the relevant appeal body it shall—~~

- ~~(a) notify the Director of Public Prosecutions of the determination, and~~
- ~~(b) send the Director a copy of the report.~~

~~(10) The relevant appeal review body shall give notification of any determination the outcome of a review under this paragraph and of its reasons for the determination made under sub-paragraph (4A);—~~

- ~~(a) to the appropriate authority (unless it is the relevant appeal body),~~
- ~~(b) to the complainant;~~
- ~~(c) to every person entitled to be kept properly informed in relation to the complaint under section 21; and~~
- ~~(d) except in a case where it appears to the relevant appeal review body that to do so might prejudice any proposed review or re-investigation of the complaint, to the person complained against (if any).~~

~~(11) In a case where the Commission is the relevant appeal body, it shall also give notification of any directions given to the appropriate authority under this paragraph—~~

- ~~(a) to the complainant;~~
- ~~(b) to every person entitled to be kept properly informed in relation to the complaint under section 21; and~~

~~(c) except in a case where it appears to the Commission that to do so might prejudice any proposed review or re-investigation of the complaint, to the person complained against.~~

(12) It shall be the duty of the appropriate authority to comply with any directions given to it under this paragraph.

(13) The Secretary of State may by regulations make provision—

- (a) for the form and manner in which ~~appeals under this paragraph are to be brought~~ *applications under sub-paragraph (1B) are to be made*;
- (b) for the period within which any such appeal must be brought *application must be made*; and
- (c) for the procedure to be followed by the relevant appeal body when dealing with or disposing of any such appeal.
- (c) for the procedure to be followed by the relevant review body when carrying out a review applied for under sub-paragraph (1B).

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

25A: Information for complainant about disciplinary recommendations

(1) This paragraph applies where, on the review of the outcome of a complaint under paragraph 25, the Director General makes a recommendation under sub-paragraph (4C)(c) of that paragraph.

(2) Where the appropriate authority notifies the Director General under paragraph 25(4D)(a) that the recommendation has been accepted, the Director General must notify the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21 of that fact and of the steps that have been, or are to be taken, by the appropriate authority to give effect to it.

(3) Where the appropriate authority—

(a) notifies the Director General under paragraph 25(4D)(a) that it does not (either in whole or in part) accept the recommendation, or
(b) fails to take steps to give full effect to the recommendation,
the Director General must determine what, if any, further steps to take under paragraph 27 as applied by paragraph 25(4D)(b).

(4) The Director General must notify the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21—

- (a) of any determination under sub-paragraph (3) not to take further steps, and
- (b) where the Director General determines under that sub-paragraph that the Director General will take further steps, of the outcome of the taking of those steps.

26: Reviews and re-investigations following an appeal *Re-investigations following a review*

(1) On a review under paragraph 25(8)(a) of the findings of an investigation the powers of the Commission shall be, according to its determination on that review, to do one or more of the following—

- (a) to uphold the findings in whole or in part;
- (b) to give the appropriate authority such directions—
 - (i) as to the carrying out by the appropriate authority of its own review of the findings;
 - (ii) as to the information to be provided to the complainant, and
 - (iii) generally as to the handling of the matter in future, as the Commission thinks fit;
- (c) to direct that the complaint be re-investigated.

(2) Where the Commission Director General directs under paragraph 25 or sub-paragraph (1) that a complaint be re-investigated, if the Director General shall make a determination of the form that the re-investigation should take.

(3) Sub-paragraphs (3) to (7) of paragraph 15 shall apply in relation to a determination under sub-paragraph (2) as they apply in the case of a determination under that paragraph.

(3A) Where, following a recommendation under paragraph 25(4E)(a) in relation to a complaint, the appropriate authority determines that it is appropriate for it to re-investigate the complaint on its own behalf, sub-paragraphs (3) to (5) of paragraph 16 shall apply in relation to the re-investigation as they apply in relation to an investigation to which paragraph 16 applies.

(4) The other provisions of this Schedule (including this paragraph) shall apply in relation to any re-investigation in pursuance of a direction under paragraph 25(8) or sub-paragraph (1) of this paragraph and any re-investigation of the type described in sub-paragraph (3A) of this paragraph as they apply in relation to any investigation in pursuance of a determination under paragraph 15.

(4A) Where the Commission determines under sub-paragraph (2) that the re-investigation should take the form of an investigation by the appropriate authority on its own behalf, the Commission may also give the appropriate authority such directions as to the handling of the matter in future as the Commission thinks fit.

(5) The Commission shall give notification of any determination made by it under this paragraph—

- (a) to the appropriate authority;
- (b) to the complainant;
- (c) to every person entitled to be kept properly informed in relation to the complaint under section 21; and

~~(d) except in a case where it appears to the Commission that to do so might prejudice any proposed re-investigation of the complaint, to the person complained against (if any).~~

(5) *The Director General shall notify the appropriate authority of any determination that the Director General makes under this paragraph and of the Director General's reasons for making the determination.*

(5A) *The Director General shall also notify the following of any determination that the Director General makes under this paragraph and of the Director General's reasons for making the determination—*

- (a) the complainant;*
- (b) every person entitled to be kept properly informed in relation to the complaint under section 21;*
- (c) the person complained against (if any).*

(5B) *The duty imposed by sub-paragraph (5A) on the Director General shall have effect subject to such exceptions as may be provided for by regulations made by the Secretary of State.*

(5C) *Subsections (6) to (8) of section 20 apply for the purposes of sub-paragraph (5B) as they apply for the purposes of that section.*

(6) ~~The Commission shall also give notification of any directions given to the appropriate authority under this paragraph—~~

- ~~(a) to the complainant;~~
- ~~(b) to every person entitled to be kept properly informed in relation to the complaint under section; and~~
- ~~(c) except in a case where it appears to the Commission that to do so might prejudice any proposed review or re-investigation of the complaint, to the person complained against.~~

27: Duties with respect to disciplinary proceedings etc

(1) This paragraph applies where, in the case of any investigation, the appropriate authority—

- ~~(a) has given, or is required to give, a notification under paragraph 24(7) of the action it is required to or will, in its discretion, take in relation to the matters dealt with in any report of the investigation; or~~
- ~~(b) has submitted, or is required to submit, a memorandum to the Commission under paragraph 23 or 25 setting out the action that it is required to or will, in its discretion, take in relation to those matters; or~~
- ~~(c) has submitted, or is required to submit, a memorandum to the Commission Director General under paragraph 24C(4).~~

(1A) *But where this paragraph would otherwise apply by virtue of sub-paragraph (1)(c), it does not apply, or ceases to apply, in relation to the investigation if the Director General determines under section 13B that the DSI matter is to be re-investigated.*

(2) Subject to paragraph 20 and to any recommendations or directions under the following provisions of this paragraph, it shall be the duty of the appropriate authority—

- (a) to take the action ~~which has been or is required to be notified or, as the case may be,~~ which is or is required to be set out in the memorandum; and
- (b) in a case where that action consists of or includes the bringing of disciplinary proceedings, to secure that those proceedings, once brought, are proceeded with to a proper conclusion.

(3) Where this paragraph applies by virtue of sub-paragraph (1)(b), the Commission may make a recommendation to the appropriate authority in respect of any person serving with the police—

- (za) that the person has a case to answer in respect of misconduct or gross misconduct or has no case to answer in relation to his conduct to which the investigation related;
- (zb) that the person's performance is, or is not, unsatisfactory;
- (a) that disciplinary proceedings of the form specified in the recommendation are brought against that person in respect of his conduct, efficiency or effectiveness to which the investigation related;
- (b) that any disciplinary proceedings brought against that person are modified so as to deal with such aspects of that conduct, efficiency or effectiveness as may be so specified;

and it shall be the duty of the appropriate authority to notify the Commission whether it accepts the recommendation and (if it does) to set out in the notification the steps that it is proposing to take to give effect to it.

(3A) Where this paragraph applies by virtue of sub-paragraph (1)(c), the Commission Director General may make a recommendation to the appropriate authority—

- (a) that the performance of a person serving with the police is, or is not, satisfactory;
- (b) that action of the form specified in the recommendation is taken in respect of the person's performance;

and it shall be the duty of the appropriate authority to notify the Commission Director General whether it accepts the recommendation and (if it does) to set out in the notification the steps that it is proposing to take to give effect to it.

(4) If, after the Commission Director General has made a recommendation under this paragraph, the appropriate authority does not take steps to secure that full effect is given to the recommendation—

- (a) the Commission Director General may direct the appropriate authority to take steps for that purpose; and
- (b) it shall be the duty of the appropriate authority to comply with the direction.

(5) A direction under sub-paragraph (4) may, to such extent as the Commission Director General thinks fit, set out the steps to be taken by the appropriate authority in order to give effect to the recommendation.

(6) Where the Commission Director General gives the appropriate authority a direction under this paragraph, it the Director General shall supply the appropriate authority with a statement of its the Director General's reasons for doing so.

(7) Where disciplinary or other proceedings have been brought in accordance with a recommendation or direction under this paragraph, it shall be the duty of the authority to ensure that they are proceeded with to a proper conclusion.

(8) The Commission Director General may at any time withdraw a direction given under this paragraph; and sub-paragraph (7) shall not impose any obligation in relation to any time after the withdrawal of the direction.

(9) The appropriate authority shall keep the Commission Director General informed—

- (a) in a case in which this paragraph applies by virtue of sub-paragraph (1)(b) or (c) (1)(c) of whatever action it takes in pursuance of its duty under sub-paragraph (2); and
- (b) in every case of a recommendation or direction under this paragraph, of whatever action it takes in response to that recommendation or direction.

28: Information for complainant about disciplinary recommendations

(1) Where

~~(a) the Commission makes recommendations under paragraph 27 in the case of an investigation of a complaint, and
(b) the appropriate authority notify the Commission that the recommendations have been accepted,~~
~~the Commission shall notify the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21 of that fact and of the steps that have been, or are to be taken, by the appropriate authority to give effect to it.~~

(2) Where in the case of an investigation of a complaint the appropriate authority

- ~~(a) notify the Commission that it does not (either in whole or in part) accept recommendations made by the Commission under paragraph 27, or~~
- ~~(b) fails to take steps to give full effect to any such recommendations, it shall be the duty of the Commission to determine what if any further steps to take under that paragraph.~~

(3) It shall be the duty of the Commission to notify the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21

- ~~(a) of any determination under sub-paragraph (2) not to take further steps under paragraph 27; and~~

~~(b) where they determine under that sub-paragraph to take further steps under that paragraph, of the outcome of the taking of those steps.~~

28ZA: Recommendations by the Director General or a local policing body

- (1) A recommendation under this paragraph (for the purposes of paragraphs 6A, 23, 24 and 25) is a recommendation of a kind described in regulations made by the Secretary of State which is made with a view to remedying the dissatisfaction expressed by the complainant concerned.
- (2) A recommendation of a kind described in regulations under subsection (1) may (amongst other things) be a recommendation that compensation be paid.
- (3) The reference in subsection (1) to the complainant concerned—
- (a) in relation to a recommendation made by virtue of paragraph 6A(5)(b) or (6)(c), is a reference to the complainant who applied under paragraph 6A(2) for the review;
 - (b) in relation to a recommendation made by virtue of paragraph 23(5F) or 24(6A), is a reference to the complainant whose complaint, having been investigated, resulted in the submission of the report under paragraph 22;
 - (c) in relation to a recommendation made by virtue of paragraph 25(4C)(d) or (4E)(d), is a reference to the complainant who applied under paragraph 25(1B) for the review.
- (4) The Secretary of State may by regulations make further provision about recommendations under this paragraph.
- (5) The regulations may (amongst other things)—
- (a) specify the persons to whom recommendations under this paragraph may be made;
 - (b) authorise the person making a recommendation under this paragraph (whether the Director General or a local policing body) to require a response to the recommendation;
 - (c) require the person making a recommendation under this paragraph to send a copy of the recommendation, and any response to it, to any prescribed person or person of a prescribed description.

28A: Recommendations by the Commission Director General

- (1) This paragraph applies where the Commission Director General has received a report (or otherwise completed one in relation to an investigation carried out under paragraph 19 by the Director General personally) under—
- (a) paragraph 22(3) (report on completion of investigation of complaint or conduct matter supervised or managed directed by Commission the Director General),
 - (b) paragraph 22(5) (report on completion of investigation of complaint or conduct matter by Commission itself or on behalf of the Director General), or

(c) paragraph 24A(2) or (2A) (report on completion of investigation of DSI matter that is not also conduct matter).

(2) This paragraph also applies where the ~~Commission~~ Director General has made a determination on ~~an appeal~~ a review under—

- (a) paragraph 8A 6A (~~appeal~~ review relating to complaint dealt with other than by investigation), or
- (b) paragraph 25 (~~appeal~~ review with respect to an investigation).

(3) The *Director General* may make a recommendation in relation to a matter dealt with in the report or ~~appeal~~ review.

(3A) *Where this paragraph applies—*

- (a) *by virtue of sub-paragraph (1)(a) or (b) and the report is a report of an investigation of a complaint, or*
- (b) *by virtue of sub-paragraph (2),*

a recommendation made under sub-paragraph (3) may not be a recommendation of a kind described in regulations made under paragraph 28ZA(1).

(4) A recommendation under this paragraph may be made to any person if it is made—

- (a) following the receipt or completion of a report relating to—
 - (i) a DSI matter,
 - (ii) a conduct matter of a type specified in regulations, or
 - (iii) a complaint of a type specified in regulations; or
- (b) following a determination on ~~an appeal~~ a review relating to a complaint of a type specified in regulations.

(5) In any other case, a recommendation under this paragraph may be made only to—

- (a) a person serving with the police, or
- (b) a local policing body.

(6) Where the ~~Commission~~ Director General makes a recommendation under this paragraph, ~~it~~ the Director General must also—

- (a) publish the recommendation, and
- (b) send a copy of it—
 - (i) in a case where the recommendation is made to a local policing body, to the chief officer of the police force maintained by that body;
 - (ii) in a case where the recommendation is made to a chief officer of a police force, to the local policing body that maintains the police force;
 - (iii) in a case where the recommendation is made to a contractor (within the meaning of section 12(10)), to the chief officer of a police force to whom the contractor is providing services, and the local policing body that maintains the police force;

- (iv) in a case where the recommendation is made to a subcontractor or an employee of a contractor, to the contractor and the persons to whom a copy must be sent under paragraph (iii);
- (v) in a case where the recommendation is made to an employee of a sub-contractor, to the sub-contractor, the contractor and the persons to whom a copy must be sent under sub-paragraph (iii);
- (vi) in any other case, to any person to whom the *Commission Director General* thinks a copy should be sent.

(7) Nothing in this paragraph affects the power of the *Commission Director General* to make recommendations or give advice under section 10(1)(e) (whether arising under this Schedule or otherwise).

28B: Response to recommendation

- (1) A person to whom a recommendation under paragraph 28A is made must provide to the *Commission Director General* a response in writing stating—
 - (a) what action the person has taken or proposes to take in response to the recommendation, or
 - (b) why the person has not taken, or does not propose to take, any action in response.
- (2) The person must provide the response to the *Commission Director General* before the end of the period of 56 days beginning with the day on which the recommendation was made, unless sub-paragraph (3) applies.
- (3) The *Commission Director General* may extend the period of 56 days following an application received before the end of the period; and if the *Commission Director General* grants an extension, the person must provide the response before the end of the extended period.
- (4) But if proceedings for judicial review of the *Commission's Director General's* decision to make a recommendation are started during the period allowed by sub-paragraph (2) or (3), that period is extended by however many days the proceedings are in progress.
- (5) On receiving a response, the *Commission Director General* must, within the period of 21 days beginning with the day on which the *Commission Director General* received it—
 - (a) publish the response, and
 - (b) send a copy of it to any person who was sent a copy of the recommendation under paragraph 28A(6)(b),unless the person giving the response has made representations under sub-paragraph (6).
- (6) The person giving the response may, at the time of providing it to the *Commission Director General*, make representations to the *Commission Director General* asserting that the requirements of publication and disclosure under sub-paragraph (5) should not apply to the response, or to particular parts of it.

(7) On receiving such representations, the ~~Commission~~ Director General may decide—

- (a) that the response should not be published, or that only parts of it should be published;
- (b) that the response should not be disclosed, or that only parts of the response should be disclosed.

(8) Where, following a decision on representations, the ~~Commission~~ Director General decides to publish or disclose a response (in whole or in part), ~~it the~~ Director General must do so only after the person giving the response has been informed of the ~~Commission's~~ Director General's decision, and—

- (a) in a case where the ~~Commission~~ Director General has decided to accept all of the representations, ~~it the~~ Director General must do so within the period of 21 days beginning with the day on which ~~it the~~ Director General received the response;
- (b) in a case where the ~~Director General~~ Commission has decided to reject any of the representations, ~~it the~~ Director General must do so—
 - (i) within the period of 21 days beginning with the day on which the person was informed of the ~~Director General's~~ Commission's decision on the representations, but
 - (ii) not before the end of the period of 7 days beginning with that day.

(9) But if proceedings for judicial review of the ~~Commission's~~ Director General's decision to reject a representation are started during the period of 7 days referred to in sub-paragraph (8)(b)(ii)—

- (a) the ~~Commission~~ Director General must not publish or disclose the response while the proceedings are in progress;
- (b) if the court upholds the ~~Commission's~~ Director General's decision to reject a representation, the ~~Commission~~ Director General must publish and disclose the response (in whole or in part, as appropriate) before the end of the period of 7 days beginning with the day on which the proceedings are no longer in progress.

(10) Where a local policing body or a chief officer makes a response under this paragraph, the body or officer must, at the time the ~~Commission~~ Director General publishes the response, also publish the response (to the same extent as published by the ~~Commission~~ Director General) and the recommendation under paragraph 28A.

(11) For the purposes of this paragraph—

- (a) “disclosing” a response means sending a copy of it as mentioned in sub-paragraph (5)(b);
- (b) the period during which judicial review proceedings are in progress includes any day on which an appeal is in progress or may be brought.

(12) *This paragraph does not apply, or ceases to apply, in relation to a recommendation made by virtue of paragraph 28A(1) if the Director General determines under section 13B that the complaint, recordable conduct matter or DSI matter that the Director General received a report on (or otherwise*

(completed one on in relation to an investigation carried out under paragraph 19 by the Director General personally) is to be re-investigated.

29: Minor definitions

In this Part of this Schedule—

~~“direction and control matter” means a matter that relates to the direction and control of a police force by—~~

~~(a) the chief officer of police of that force, or~~

~~(b) a person for the time being carrying out the functions of the chief officer of police of that force;~~

~~“gross misconduct” means a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal;~~

~~“misconduct” means a breach of the Standards of Professional Behaviour;~~

~~“the person investigating”, in relation to a complaint, recordable conduct matter or DSI matter, means the person appointed or designated to investigate that complaint or matter;~~

~~“prescribed” means prescribed by regulations made by the Secretary of State;~~

~~“the Standards of Professional Behaviour” means the standards so described in, and established by, regulations made by the Secretary of State.~~

Appeals Reviews: the relevant appeal review body

30 (1) The relevant appeal review body in relation to an appeal a review is—

~~(a) the Commission Director General, in a case where a local policing body is the appropriate authority in relation to the relevant complaint or the relevant complaint falls within a description of complaints specified in regulations made by the Secretary of State for the purposes of this paragraph; or~~

~~(b) the chief officer of police who is the appropriate authority in relation to the relevant complaint, in any other case.~~

~~(b) the local policing body which is the relevant local policing body in relation to the relevant complaint, in any other case.~~

~~(2) In this paragraph and paragraphs 31 and 32—~~

~~“appeal” means an appeal under paragraph 7(8), 8A, 21(7) or 25(2);~~

~~“relevant complaint”, in relation to an appeal, means the complaint to which the appeal relates.~~

(2) In this paragraph and paragraphs 31 and 32—

“relevant complaint”, in relation to a review, means the complaint to which the review relates;

“relevant local policing body”, in relation to a relevant complaint where a chief officer is the appropriate authority in relation to the complaint, means the local policing body for the area of the police force of which the chief officer is a member;

“review” means a review applied for under paragraph 6A(2) or 25(1B).

~~31(1) This paragraph applies in a case where—~~

- ~~(a) an appeal is made to the Commission; and~~
- ~~(b) the appropriate authority is the relevant appeal body in relation to the appeal.~~

~~(2) The Commission must—~~

- ~~(a) forward the appeal to the appropriate authority; and~~
- ~~(b) notify the person who made the appeal—~~
 - ~~(i) that the appropriate authority is the relevant appeal body; and~~
 - ~~(ii) the appeal has been forwarded.~~

~~(3) The appeal is to be taken to have been—~~

- ~~(a) made to the appropriate authority; and~~
- ~~(b) so made at the time when it is forwarded to the appropriate authority.~~

31 (1) This paragraph applies in a case where—

- (a) an application for a review is made to the Director General; and*
- (b) a local policing body is the relevant review body in relation to the review.*

~~(2) The Director General must—~~

- ~~(a) forward the application to the local policing body; and~~
- ~~(b) notify the person who applied for the review—~~
 - ~~(i) that the local policing body is the relevant review body; and~~
 - ~~(ii) the application has been forwarded.~~

~~(3) The application is to be taken to have been—~~

- ~~(a) made to the local policing body; and~~
- ~~(b) so made at the time when it is forwarded to the local policing body.~~

~~32 (1) This paragraph applies in a case where—~~

- ~~(a) an appeal is made to the appropriate authority; and~~
- ~~(b) the Commission is the relevant appeal body in relation to the appeal.~~

~~(2) The appropriate authority must—~~

- ~~(a) forward the appeal to the Commission; and~~
- ~~(b) notify the person who made the appeal—~~
 - ~~(i) that the Commission is the relevant appeal body; and~~
 - ~~(ii) the appeal has been forwarded.~~

~~(3) The appeal is to be taken to have been—~~

- ~~(a) made to the Commission; and~~
- ~~(b) so made at the time when it is forwarded to the Commission.~~

32 (1) This paragraph applies in a case where—

- (a) an application for a review is made to a local policing body; and*
- (b) the Director General is the relevant review body in relation to the review.*

- (2) *The local policing body must—*
 - (a) *forward the application to the Director General, and*
 - (b) *notify the person who applied for the review—*
 - (i) *that the Director General is the relevant review body, and*
 - (ii) *the application has been forwarded.*
- (3) *The application is to be taken to have been—*
 - (a) *made to the Director General, and*
 - (b) *so made at the time when it is forwarded to the Director General.*