



POLICE COMPLAINTS AND DISCIPLINE DRAFT REGULATIONS

EXPLANATORY NOTES

This document sets out explanatory notes to the draft police complaints and discipline regulations.
Version 2

POLICE INTEGRITY UNIT, HOME OFFICE – 12 October 2018



1. These explanatory notes accompany the Police Complaints and Discipline Draft Regulations and are provided as a guide and explanation of the contents of the draft regulations.
2. As with the draft regulations themselves these notes are covered by the same handling conditions and should be treated as Restricted.
3. These notes, as with the regulations, have not been subject to legal checks and may be subject to change. These notes are for illustrative / explanatory purposes only to assist in reviewing and understanding the new draft regulations only and are not to be considered statutory guidance.



Police (Conduct) Regulations - a comparison of the 2019 and 2012 Regulations

2019 Regulations	Notes	2012 Regulations	Notes
PART 1 – preliminary			
1. Citation, commencement and extent	Includes the territorial extent of the Regulations and date of commencement.	1. Citation, commencement and interpretation	
2. Revocation and saving and transitional provisions	<p>Revokes the 2012 Conduct Regulations.</p> <p>Sets out transitional arrangements. The overarching approach is same as in 2012 regs i.e. that Where an allegation came to the attention of the Appropriate Authority before 1 April 2019 these regulations do not apply and cases which started under the 2012 Regulations will conclude under that framework.</p>	2. Revocation and transitional provisions	
3. Interpretation and Delegation	<p>This sets out in particular the core definitions for the purposes of the regulations. This includes the revised definition of ‘misconduct’, the introduction of ‘practice requiring improvement’ and the remaining definitions for the purposes of the regulations.</p> <p>The regulation also includes the revised delegation which allows appropriate authority to delegate decision making functions now to the rank of ‘Inspector’, where previously this sat at ‘Chief Inspector’ decisions made in accordance with Regulation 10, 13, 21 or 46 must be authorised by a senior officer (an officer holding rank above ‘Chief Superintendent’).</p>	3. Interpretation and delegation	
4. The Harm Test	As previously in the 2012 regulations, the Harm Test sets out the grounds on which disclosure of information or documents to the officer concerned can be prevented.	4. The Harm Test	



PART 2 - General			
5. Application	This regulation sets out the conditions under which the regulations apply, which includes when the officer is serving, where the officer resigns or retires following an allegation, where an allegation is raised within 12 months of the officer leaving the force or under certain limited conditions outside of the 12 months. The former officer provisions do not apply where an officer ceased to serve prior to 15 December 2017.	5. Application	
6. Police Friend	Regulation 6 sets out the role, responsibilities and circumstances of the police friend for the purposes of officer representation.	6. Police Friend	
7. Legal Representation	This Regulation sets out the entitlement to legal representation for an officer at a misconduct hearing or accelerated misconduct hearing. The regulation also provides that the unavailability of a particular lawyer is not a ground under which proceedings can be unreasonably delayed.	7. Legal and other representation	
8. Provision of Notices and Documents	This regulation sets out the requirements for the service of notices to officers, this now includes greater flexibility under 8(d) for documents to be provided in any form with the agreement of the officer concerned which is intended, for example, to allow the delivery of notices and documents electronically.	8. Provision of Notices and Documents	
9. Outstanding or possible criminal proceedings	This regulation sets out that proceedings should proceed without delay but allows for proceedings to be suspended (and resumption following conclusion) whilst criminal proceedings are ongoing which could be prejudiced.	9. Outstanding or possible criminal proceedings	
10. Suspension	Regulation 10 sets out the conditions of suspension and decision making in relation to the suspension conditions of an officer under investigation.	10. Suspension	10A was removed by SI 2017 1134
11. Record of Disciplinary Proceedings	This regulation requires a record of proceedings to be kept.		Was reg. 58 in Part 6 of the 2012 regulations



PART 3 – Investigations			
12. Application of this Part	Regulation setting out that Part 3 of the regulations does not apply to Police Reform Act 2002 (Schedule 3) cases.	11. Application of this Part (Part 3) (see below)	Dis-applied PRA cases
13. Severity Assessment	This regulation sets out what was previously known as the Assessment of Conduct and now includes the ability to refer matters which do not amount to misconduct or gross misconduct to the reflective practice review process (Part 6) or the performance regulations, as appropriate.	12. Assessment of Conduct	AA assessed whether conduct would amount to misconduct, gross misconduct or neither
14. Appointment of Investigator	Sets out conditions of an investigator appointed to investigate under Part 3.	13. Appointment of investigator	
15. Investigation	Sets out the purpose of an investigation	14. Investigation	
16. Written Notice	Sets out that the officer concerned should be issued with written notice of investigation and notified of various matters including the outcome of the severity assessment. It also adds the new requirement to provide detailed Terms of Reference to the officer concerned.	15. Written notices	Did not include requirement to provide TOR
17. Representations to the investigator	Sets out the requirements on the officer concerned for responding to the Terms of Reference issued in accordance Regulation 16 and any matter under investigation and now includes relevant mitigating circumstances.	16. Representations to the investigator	
18. Timeliness of investigation	New Reg covering duties on AA when an investigation is not completed within 12 months to notify the local policing body and the officer concerned.		
19. Interviews during Investigation	Sets out the requirements for interviewing the officer concerned during an investigation	17. Interviews during investigation	Did not specify that the interview could not take place without the officer receiving the TOR first.
20. Report of Investigation	Sets out the requirements for the completion and submission of the investigation report.	18 Report of investigation	

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	<p>It also sets out a new additional requirement that during the course of an investigation that if new evidence comes to light that suggests an alternative severity assessment would be made, the matter must be referred to the AA for a further regulation 13 assessment. This includes the report of the investigation to that point and the investigators reasons for the referral, and whether the matter should in their view result in no further action, referral to performance proceedings or the reflective practice review process.</p> <p>If the AA makes an assessment that matter no longer amounts to misconduct or gross misconduct the investigation be handled in accordance with Regulation 13 and promptly concluded.</p>		
PART 4 - Misconduct Proceedings			
<p>21. Referral of case to Misconduct Proceedings</p>	<p>This regulation sets out the Case to Answer decision making process and how matters should be referred to misconduct proceedings. It sets out the different steps that must be taken where an investigation has been carried out under the Conduct Regulations or paragraph 16 of Police Reform Act. It also sets out the steps that must be taken where the AA is under a duty or direction following a paragraph 18 or 19 investigation.</p> <p>The Regulation sets out the determination required for resuming proceedings following the conclusion of any criminal proceedings, irrespective of the outcome.</p> <p>The Regulation also sets out the referral routes if there is no case to answer to Practice requiring improvement or the Performance Regulations, depending on the circumstances. At this stage, where there has been an investigation, it can be possible for a matter to be referred to either stage 1, 2, or 3 depending on the circumstances of the matter. This is set out in the Performance Regulations.</p>	<p>19. Referral of case to misconduct proceedings</p>	



	The regulation also now sets out the requirement to disclose a copy of the investigation report to an officer where there is no case to answer.		
22. Presenting of case by the Director General	This regulation sets out the conditions under which the DG of the IOPC may determine that it will present a case at Misconduct Hearing instead of the AA. Subsequent regulations set out the specific requirements for the DG when presenting cases.	New Regulation	
23. Joint Misconduct Proceedings	This regulation sets out the provisions for misconduct proceedings being held jointly with more than one officers, with a right for the officers concerned to object and request separate proceedings.	New Regulation	
24. Delegation of functions	This regulation allows an appropriate authority to delegate its functions in a particular case to another appropriate authority – this allows for another force to host the misconduct hearing, with the original AA continuing to present the case.	New Regulation	
25. Withdrawal of misconduct proceedings	This regulation sets out the conditions and process for withdrawing proceedings against an officer and the further referrals to other proceedings that can occur when this happens.	20. Withdrawal of case	
26. Persons conducting misconduct proceedings	This regulation sets out the composition of the panel or person conducting misconduct proceedings for senior and non-senior officers.	25. Persons conducting misconduct proceedings: other than senior officers	Now reg 26 and chair hearing qualification period aligned Old 26. Persons conducting misconduct proceedings: senior officers Omitted by new

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			regulations; modification for senior officers regulated in new reg 26.
27. Role of Chair of Misconduct Hearing	This regulation sets out the role and responsibility of a Legally Qualified Chair in preparing and conducting proceedings. It also sets out the time limits for the commencement of a misconduct hearing following the issuing of the notice of referral to proceedings and the proscribed time-limits at certain stages of the process.	New Regulation.	
28. Notice of Referral to misconduct proceedings	This regulation sets out what must be contained within a notice of referral to misconduct proceedings and the procedure for an officer to object to the person chairing or conducting proceedings.	21. Notice of referral to misconduct proceedings and panel membership	Now reg 28 and doesn't include notification of panel members which now happens at reg 33
29. Procedure on receipt of notice	This regulation sets out the requirements of the officer concerned in responding to a notice of referral, including the provision of lists of proposed witnesses.	22. Procedure on receipt of notice	
30. Witnesses and documents to be supplied	This regulation sets out provisions for providing lists of witnesses for proceedings, as well as documentation which must be supplied within 10 working days from being supplied under reg 29.	23. Witnesses 27. Documents to be supplied	Omitted in new regs and included in new reg 30 'Witnesses and documents'
31. Misconduct Pre-Hearing	This new regulation sets out how pre-hearings for misconduct proceedings should be conducted, designed to make proceedings overall more effective and efficient.	New Regulation	

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	Pre-hearings can be convened in order to discuss and determine a range of matters including the timing of the hearing, witnesses, preliminary legal arguments or points of law and issues related to disclosure.		
32. Timing of Misconduct meeting	This regulation sets out the requirements for the convening of a misconduct meeting and the timing of it.	24. Timing and notice of misconduct proceedings	Now regulated by regs 32 and 33
33. Notice of misconduct proceedings and panel	This regulation requires notice to be served on the officer to notify of the date, time and location of the hearing, as well as the membership of the panel.	24. Timing and notice of misconduct proceedings	Now regulated by regs 32 and 33
34. Public notification of misconduct hearings	This regulation requires notice of the hearing to be published and provides that representations can be made about the hearing being in public or any proposed exclusions.	27A. Notification of Misconduct Hearings	Public notification which is now regulated in reg 34.
35. Attendance of the officer concerned at misconduct proceedings	This regulation requires the officer concerned to attend misconduct proceedings, as well as the entitlement to be represented.	28. Attendance of officer concerned at misconduct proceedings	Now regulated by reg.35
36. Participation of the Director General and investigator at misconduct proceedings	This regulation sets out provision for the DG to attend and make representations at misconduct proceedings.	29. Participation of Commission and investigator at misconduct proceedings	Now regulated at reg 36 to include DG's participation where not presenting.
37. Reporting restrictions, participation and exclusion from proceedings	This regulation sets out misconduct hearings are to be held in public but allows for restrictions or exclusions to be made by the person chairing including taking representations from the media.	New Regulation. 32. Exclusion from misconduct proceedings	

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38. Attendance of complainant, interested parties and others at misconduct proceedings	This regulations provides for the attendance of complainants and interested parties at misconduct proceedings.	30. Attendance of complainant or interested person at misconduct proceedings 31. Attendance of others at misconduct proceedings	Now regulated by reg 38. Now regulated by reg 38 and 37 which regulates for the hearing to be in public and covers reporting restrictions and exclusions.
39. Procedure at misconduct proceedings	This regulation sets out the procedure to be followed at misconduct meetings and misconduct hearings, and the role of each of the presenting parties. It sets out how findings of misconduct or gross misconduct or no case to answer are to be reached.	33. Procedure at misconduct proceedings	Now regulated by reg. 39
		34. Senior officers further meeting or hearing	Omitted by the new regs
40. Outcome of misconduct proceedings	This regulation sets out how disciplinary action following a finding should be imposed, and the ability of specified parties to make representations in respect of mitigation or appropriate sanction. Where a finding of misconduct or gross misconduct is made, disciplinary action will be imposed in the form of a written warning, final written warning, reduction in rank or dismissal. The latter two sanctions are only available at a misconduct hearing where there is a finding of gross misconduct or multiple findings of misconduct.	35. Outcome of misconduct proceedings	Now regulated by reg. 40 with changes to sanctions and weighing late mitigation.



	The regulation sets out the time limit for written warnings (2 years) which can be extended to a maximum of 5 years.		
41. Notification of outcome	This regulation provides for parties to be notified of the outcome in the form of the determination of the person chairing proceedings. This regulation now also provides for that determination to be published.	36. Notification of outcome	Now regulated by reg 41 which includes publication of report
42. Record of misconduct proceedings	This regulation requires that a verbatim record of proceedings be taken.	37. Record of misconduct proceedings	Now reg.42
43. Appeal from misconduct meeting: officers other than senior officers	This regulation applies the right of appeal following a misconduct meeting.	38. Appeal from misconduct meeting: officers other than senior officers	
44. Appeal Meeting	This regulation provides for the appeal meeting process.	39. Appeal Meeting	
45. Procedure and finding of the appeal	This regulation provides for the appeal meeting procedure and the making of a finding at such a meeting.	40. Procedure and finding of the appeal	



PART 5 – ACCELERATED MISCONDUCT HEARINGS		These provisions were known as Fast Track Procedures for special cases in previous regulations	
46. Referral of case to accelerated misconduct hearing	This regulation sets out the equivalent provisions of regulation 21 but includes the determination process for the application of the special conditions and a matter being handled as a special case within part 5 for bringing an accelerated misconduct hearing, previously known as a fast track hearing. The special conditions are defined in regulation 3.	41. Referral of case to accelerated misconduct hearing	
47. Remission of case	This regulation provides for the remission of a case back to part 4 where it is determined the special conditions are no longer satisfied.	42. Remission of case	
48. Notice of referral to accelerated misconduct hearing	This regulation sets out the equivalent provisions of regulation 28.	43. Notice of referral to special case hearing	
49. Notice of accelerated misconduct hearing	This regulation sets out the equivalent provisions of regulation 33.	44. Notice of special case hearing.	
50. Public notification of accelerated misconduct hearing	This regulation provides equivalent provisions of regulation 34.	44A Notification of special case hearing	Was the public notification
51. Procedure on receipt of notice	This regulation replicates the provisions of Regulation 29.	45 Procedure on receipt of notice	
52. Person Conducting accelerated	This regulation sets out the requirements for the persons(s) conducting an accelerated misconduct hearing.	46. Persons conducting special case hearing: officers	Now one reg combining senior

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misconduct hearing		other than senior officers 47. persons conducting special case hearing: senior officer	and non-senior officers Now one reg 52 combining senior and non-senior officers
53. Documents to be supplied	This regulation sets out the requirements for the provision of documents by the AA prior to the accelerated misconduct hearing.	48. Documents to be supplied	Now reg. 53
54. Attendance of the officer concerned at accelerated misconduct hearing	This regulation replicates the provisions of Regulation 35.	49. Attendance of officer concerned at special case hearing	Now reg 54
55. Participation of Director General and investigator at accelerated misconduct hearing	This regulation sets out the equivalent provisions of regulation 36.	50. Participation of Commission and investigator at special case hearing	Now reg 55 to cover DG.
56. Reporting Restrictions and participation at accelerated misconduct hearing	This regulation sets out the equivalent provisions of regulation 37.	New Regulation 52. Attendance of others	Now regulated by reg 56 which sets condition for hearing to be in public with restrictions
57. Attendance of complainant and interested persons at accelerated	This regulation sets out the equivalent provisions of regulation 38.	51. Attendance if complainant and interested persons at special case hearing	Now reg 57

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misconduct hearing			
58. Procedure at accelerated misconduct hearing	This regulation sets out the procedure for an accelerated misconduct hearing and is the equivalent of Regulation 39.	53.Procedure at special case hearing	Now reg 58
		54. Senior officer further hearing	Omitted by new regulations
59. Outcome of accelerated misconduct hearing	This regulation sets out the procedure for determining the outcome of an accelerated misconduct hearing, which includes the disciplinary action of final written warning, reduction in rank or dismissal where gross misconduct is proven. Where gross misconduct is not found the case may either be dismissed or handled in accordance with Part 4.	55.Outcome of special case hearing	Now reg 59.
60. Notification of outcome	This regulation sets out the equivalent provisions of regulation 41.	56. Notification of outcome	Now reg. 60
61. Record of accelerated misconduct hearing	This regulation sets out the equivalent provisions of regulation 42.	57. Record of special case hearing	Now reg. 61.

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PART 6 – REFLECTIVE PRACTICE REVIEW PROCESS			
62. Interpretation and application	This regulation sets out the terms of application for this new Part and the definitions applicable, including the circumstances in which matters can be referred to the reflective practice review process.		
63. General	This regulation sets out the application of the Police Friend to this part. It also sets out how the process should be used for multiple officers. It sets out the protections for officers in ensuring that the process cannot act as a bar to promotion and nor can accounts given by the officer concerned by used in disciplinary proceedings involving the officer about the same matter.		
64. Referral to reflective practice review process	This regulation sets out how a participating officer should be informed of a referral and the invitation of provision of an account issued.		
65. Fact-finding stage	This regulation sets out the limited fact-finding that can be undertaken by the reviewing officer. It also sets out how matters should be handled if evidence comes to light that suggest the matter should be subject to a further assessment by the Appropriate Authority.		
66. Discussion Stage	This regulation sets out the process for holding a discussion with the participating officer and what this should include.		
67. Reflective Review Action Report	This regulation sets out what must be included in a reflective action review report and how this should be handled.		
68. Failure to engage with the Reflective Practice Review process	This regulation sets out how the reviewer should handle a situation where an officer either fails to engage with this process or where there is evidence of repeated behaviour deal with under this process.		
Schedule 1: Standards of Professional Behaviour			
As previous, with the introduction of the Duty of Cooperation under Duties and Responsibilities			

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Police (Complaints and Misconduct) Regulations - a comparison of the 2019 and 2012 Regulations

2019 Regulations	Notes	2012 Regulations	Notes
PART 1 – preliminary			
1. Citation, commencement and interpretation	Includes definitions of terms.	1. Citation, commencement and interpretation	
2. Revocation and transitional provision	<p>Revokes several sets of regs including the 2012 C&M regs.</p> <p>Sets out transitional arrangements. The overarching approach is same as in 2012 regs i.e. that “Where a complaint, conduct matter or DSI came to the attention of the AA before [coming into force date] nothing in these regulations applies and the [name of previous regulations] continue to have effect.” Therefore, if matter comes to the attention of AA before [1st April 2019] it will be handled to a conclusion under the 2012 regs.</p> <p>There will be a limited number of exceptions to the general rule (IOPC re-investigations. IOPC power of seizure and retention, and new “Old Cases”). This regulation also addresses the need for the 2012 regs to continue to have effect for “satellite” bodies such as non-HO forces, contractors etc.</p>	2. Revocation and transitional provisions	
PART 2 - handling of complaints and conduct matters etc.			
3. Recording of complaints	Incorporates Reg 15 from 2012 Regs (copies of complaints etc.). Existing Reg 3 (recording of complaints) removed in light of new paras 2(6A) in Schedule 3 which says that a complaint must be recorded if, at any time, the complainant indicates a wish for it to be recorded.	3. Recording of complaints 15. Copies of complaints	



4.Reference of complaints: copies of complaints etc.	Updates Reg 4 in 2012 Regs. Existing mandatory referral criteria are carried forward unchanged. Reg also incorporates new provisions on the mandatory referral of complaints about Chief Officers to the IOPC.	4. Reference of complaints to the Director General	
		5. Disapplication of requirements of Schedule 3	Removed in line with removal of disapplication provisions (para 7, Sch 3)
		6.Local resolution of complaints	Removed in line with removal of LR provisions in para 8 of Sch 3.
5. Complaints relating to conduct of chief officers	New regulation setting out the duties of the DG with regard to the investigation of complaints against a Chief Officer		
6.Handling of complaints by AA: exception to duty to investigate.	New regulation. Para 6(2C) of Sch 3 says that the AA must investigate the complaint if there is “an indication” etc. This regulation sets out the exceptions to that requirement. Essentially, if the complaint concerns substantially the same matters as a previous complaint or previous conduct matter (and that complaint or conduct matter has been or is being investigated or otherwise handled in accordance with Sch 3) then the complaint need not be investigated.		
7. Recording and reference of conduct matters	Broadly mirrors existing Reg 7. The description of recordable contact matter is unchanged from the 2012 Regs (except for the addition of a new provision on chief officers). The description of when a conduct matter is not required to be recorded is largely unchanged but it has been amended to remove references to local resolution, disapplication or discontinuence. While the word “repetitious” is not used in this reg (unlike reg 7 of the 2012 C&M regs) it is essentially setting out when a conduct matter can be treated as repetitious. The description of recordable contact matters that must be referred to the IOPC is unchanged (except for the addition of a new provision on chief officers)	7. Recording and reference of conduct matter	



8. Recordable conduct matters relating to the conduct of chief officers etc.	New Reg setting out duties of DG to investigate recordable conduct matters relating to chief officers that have been referred to the DG.		
9. Reference of DSI matters	Very closely mirrors Reg 8 in 2012 regs.	8. Reference of death or serious injury matters	
		9. Power of Director General to impose requirements in relation to an investigation which the Director General is supervising	Removed in line with removal of provisions on Supervised investigations (para 17 of Sch 3).
10.DSI matters relating to the conduct of chief officers etc.	New Reg setting out duties of DG on reference of a DSI matter in relation to which the relevant officer is a chief officer.		
		10. Power to discontinue an investigation	Removed in line with removal of para 21 in Sch 3
PART 3 – Investigations and subsequent proceedings			
11.Notification of determination of form of investigation etc.: exceptions	New Reg setting out exceptions to new notification duties of the IOPC Director General i.e. the duties in para 15(9) of Sch 3, section 13B and para 26(5A) of Sch 3 to notify the complainant, any interested persons and the person to whose conduct the investigation will relate. The provisions on the purposes of the non-disclosure of information mirror the existing Reg 13 exceptions.		
12. Appointment of persons to carry out investigation	Broadly mirrors reg 24 in 2012 C&M regs (but the provisions on direction and control matters have been removed in light of the removal of references to “direction and control matters” in the primary legislation.	24. Appointment of persons to carry out investigations	
13.Timeliness of investigations	New Reg covering duties on AA and of the IOPC Director General when an investigation is not completed within 12 months. The 2019 Conduct regs contain a similar new provision (Reg 18 of those regs).		



EXPLANATORY NOTES TO THE DRAFT POLICE COMPLAINTS AND DISCIPLINE REGULATIONS

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14. Combining and splitting investigations	Mirrors existing reg 25	25. Combining and splitting investigations	
15. Change to form of investigation: provision of documentation and evidence	Broadly replaces existing reg 26, but updated to reflect: a) the replacement of supervised and managed investigations with directed investigations and b) the updated/amended para 15 in Sch 3. Note that requirements in existing reg 26(2)(a) to inform the AA, complainant, interested person and person complained against are now provided for in the amended paras 15(8) and (9) of Sch 3.	26. Relinquishing the Director Generals supervision or management of an investigation	
16. Special procedure: severity assessment	New regulation to reflect new Para 19(A) in Sch 3 which provides for provisions on special procedures to be moved into regulations. This reg updates existing para 19B in Sch 3 to reflect the new IOPC governance model (the 2017 Act didn't amend 19B fully in line with new IOPC governance model).		
17. Special procedure: notification of severity assessment etc.	Updates existing Reg 16 (written notices) adding the new requirement to provide Terms of Reference. The detailed wording of this reg has been revised to ensure as close an alignment to the equivalent reg in the new Conduct regs (reg 16 in those regs).	16.Written notices	
18. Special procedure: police friend	Broadly mirrors and updates existing Reg 17 (Police friend). New wording makes clearer the specific arrangements for a) police officers and specials and b) for police staff members or designated police volunteers.	17. Police friend	
19. Special procedure: revision of severity assessment	Covers procedures currently set out in para 19B(10) and (11) and Reg 16(2), updated to reflect the new IOPC governance model.		
20. Special procedure: representations to the person investigating	Updates existing reg 18 and reflects new IOPC governance model	18.Representations to the investigator	
21. Special procedure: interview	Updates existing reg 19 and para 19B(9)	19. Interviews during investigation	.

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of person concerned			
22. Special procedure: duty to provide information to AA	Replacement for para 19E in Sch 3.		
23. Accelerated procedure: statement and report	New reg in light of new para 20A in Sch 3 that has the effect of moving Accelerated procedure provisions currently set out in paras 20B to 20I into these regulations amended to reflect the new IOPC corporate structure.		
24. Accelerated procedure: investigations by the appropriate authority on its own behalf	As above		
25. Accelerated procedure: other investigations	As above		
26. Report of investigation	Mirrors and updates existing reg 20 (report of investigation). Note that the matters the DG must notify the AA of the DG's opinion on include whether or not any matter which was the subject of the investigation should be referred to be dealt with under the "reflective practice review process" (PRI).	20. Report of investigation.	
27. Provision of copy of report on investigation etc.	New reg to provide for the subject of the investigation to get a copy of the investigation report where there is no case to answer. A similar new provision has been included in the 2019 Conduct regs (reg 21(7)(b) in those regs).		



<p>28. Reviews</p>	<p>Updates Reg 11 to reflect that there are now only two routes to a review: para 6A (complaints handled otherwise than by investigation) and para 25 (complaints subject to an investigation)</p> <p>Parts of the existing reg 11 (Appeals) have been removed (to reflect the removal of the non-recording and local resolution provisions in Sch 3). Other provisions have been incorporated into this new “Reviews” reg.</p> <p>Provisions on providing information to the complainant (existing reg 11(2)) have been incorporated into new Reg 32(2) (matters of which complainant and interested person must be kept informed). Regs 11(11) and 11(12) (duty of RAB to notify complainant etc. of the outcome of the appeal and any determinations have not been carried over into new regs in light of the new/amended paras 6A(9) and 25(10) of Sch 3 (notifying relevant parties of the outcome of the review) which would include, in the case of the DG, notifying relevant parties of a direction that the complaint must be investigated or re-investigated).</p>	<p>11. Appeals</p>	
<p>29. Recommendations by the DG or a LPB</p>	<p>This makes provision for recommendations that may be made by a LPB/PCC or the DG under new para 28ZA of Sch 3 or by LPB/PCC as the relevant review body (RRB). Note that Sch 3 also includes a number of provisions on recommendations by the RRB whether that is the LPB/PCC or the IOPC DG. In addition, Reg 30 makes provision for recommendations by the DG under paragraph 28A of Sch 3.</p>		
		<p>29. Notification of actions and decisions</p>	<p>Reg removed in light of changes to Case to Answer process (para 23), Reviews with respect to an investigation (para 25) and wider</p>



			notification duties inc new para 25A
30. Recommendations by the DG under para 28A	Updates existing Reg 29A	29A – Recommendations by the Commission and requirements to respond	Carried forward as new reg 30.
31. Relevant review body	Mirrors and updates existing Reg 30 (Relevant Appeal Body). Note that the new definition of “misconduct” in the Conduct regulations will mean that the LPB/PCC will be the RRB in a greater number of cases compared to now. This is because some complaint allegations that (if proved) would currently justify the bringing of disciplinary proceedings will not justify such proceedings in future as the misconduct threshold for justifying such proceeding will be higher.	30. Relevant review body.	Carried forward as reg 31.
PART 4 - Keeping the complainant and interested persons informed			
32. Matters of which the complainant and interested person must be kept properly informed	<p>New Reg that, together with Reg 33, pulls together provisions on the matters of which the complainant and person concerned must be kept properly informed in accordance with sections 20(4)(d) and 21(9)(c) of the 2002 Act. Note that the amended s.20 and 21 set out a number of notification duties themselves e.g. keeping complainant properly informed of any right to apply for a review.</p> <p>This reg incorporates parts of existing Reg 9 (Appeals). It also incorporates existing Reg 12(7) to the extent that Reg covers complainants and interested persons, and it widens notification duties to cover the progress and outcome of any criminal and performance proceedings and reflective practice review process (as well as the outcome of disciplinary proceedings and the fact and outcome of any appeal against such proceedings).</p> <p>Note: Existing Regs 11(11) and 11(12) (duty of Relevant Appeal Body to notify complainant etc. of the outcome of the appeal and any determinations) have not been carried over into new regs in light of the new/amended paras 6A(9) and 25(10) of Sch 3 which provide for the AA, complainant, interested person and (subject to prejudice test)</p>		



	the person complained against to be notified of the outcome of a review and of its reasons for the determination as to whether outcome was reasonable and proportionate.		
33. Manner in which duties to keep the complainant and interested person informed are to be performed	Updates, with appropriate changes, the existing reg 12 (Manner in which duties to provide information are to be performed). Now covers informing persons of the progress of the handling of the complaint (not just progress of investigation).	12. Manner in which duties to provide information are to be performed	Reg 12(8) removed.
34. Exceptions to duties to keep complainant and interested person informed	Updates/amends existing Reg 13.	13. Exceptions to the duty to keep complainant informed and provide information for other persons	
35. meaning of relative	Essentially mirrors existing Reg 14	14. Meaning of relative	
36. AA to notify the DG of outcomes of disciplinary proceedings etc.	Mirrors existing Reg 12(7) in respect of notifications to the DG but widens requirement to cover outcomes of performance proceedings or reflective practice review process (as well as outcomes of disciplinary proceedings) and the fact and outcome of any appeal against the outcome of proceedings.		
37. Withdrawn complaints	Together with reg 38, this reg largely mirrors and updates existing Reg 21	21. Withdrawn complaints	Updated and carried forward as regs 37 and 38.
38. Withdrawn complaints: no written signed notification	Updates Reg 21(9) and (10)		
39. Suspension of investigation or other procedure	Carries forward and updates existing Reg 22	22. Circumstances in which an investigation or other procedure may be suspended.	
40. Resumption of investigation after	Carries forward and updates existing Reg 23	23. Resumption of investigation after criminal proceedings	

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criminal proceedings			
41. Complaints and conduct matters relating to the conduct of a person who has ceased to be a person serving with the police	Carries forward existing reg 27	27. Complaints and conduct matters relating to the conduct of a person who has ceased to be a person serving with the police	
42. Complaints and conduct matters concerning a person whose identity is unascertained.	Carries forward existing reg 28	28. Complaints and conduct matters concerning a person whose identity is unascertained.	
43. Records to be kept by local policing bodies and chief officers	Carries forward existing Reg 31, updated to reflect new provisions in Schedule 3	31. Keeping of records	
44. Register to be kept by the DG	Carries forward existing reg 32, updated to reflect changes to Sch 3 e.g. removal of provisions on local resolution and supervised and managed investigations	32. Register to be kept by the Director General	
45. Delegation of powers and duties by chief officers	Carries forward existing reg 33 updated a) to reflect the removal of local resolution and the introduction of handling complaints otherwise than by investigation or otherwise than in accordance with Sch 3. In addition, the reference to the rank of “chief inspector” has been replaced by “inspector”	33. Delegation of powers and duties by chief officers	
46. Definition of “disciplinary proceedings” for the purposes of Part 2 of the 2002 Act in relation to police staff members and designated police volunteers	Carries forward existing Reg 36, updated to reflect the relevant provisions in which proceedings or management process considers performance.	36. Disciplinary proceedings for police staff and designated police volunteers	



EXPLANATORY NOTES TO THE DRAFT POLICE COMPLAINTS AND DISCIPLINE REGULATIONS

Home Office

<p>47. Local policing bodies: functions in relation to complaints: giving of section 13A notices</p>	<p>New regulation reflecting changes to the primary legislation enabling PCCs to take on (on an optional basis) certain functions of the chief constable. The primary legislation requires that, as soon as a s13 notice is given the changes come into effect. Given that practical challenges that presents, this Reg requires the LPB to inform the CC that it intends to give notice.</p> <p>This regs also provides for the steps that are taken before the 2019 regs come into force to count towards meeting the requirements for what needs to be done before a notice is given. In other words if the requirements for consultation etc are carried out in advance of the reforms coming into force, a LPB/PCC can take on Model 2 or 3 from Day One.</p>		
<p>48. Local policing bodies: functions in relation to complaints: withdrawal of section 13A notices</p>	<p>New Reg setting out arrangements for a LPB to withdraw a section 13A notice.</p>		
<p>49. Delegation of powers and duties by local policing bodies</p>	<p>New Reg provided for by the 2017 Act to specify the delegation of PCC powers of duties. For existing functions (AA in chief officer cases) and the new mandatory functions (explicit duty to hold CC to account for complaints handling and being the RRB) the provisions mirror provisions on the delegation of PCC's powers in s.18 of 2011 Act. This reg provides for greater flexibility in respect of the delegation of optional PCC complaints functions (Models 2&3) which can be delegated to police staff members.</p>		
<p>50. Manner and time limits of notifications under these regulations</p>	<p>Essentially mirrors reg 34 in 2012 regs</p>	<p>34. Manner and time limits of notifications.</p>	
<p>51. Application of Part 2 to old cases</p>	<p>New Reg which provides for Part 2 of the 2002 Act and provisions made under it, including these 2019 regs, to apply to Old Cases with certain modifications.</p>		

RESTRICTED



EXPLANATORY NOTES TO THE DRAFT POLICE COMPLAINTS AND DISCIPLINE REGULATIONS

Home Office

52. Variation of policing protocol	New Reg. Sets out consequential changes to the protocol which are necessary as a result of the changes in the 2017 Act.		
53. Amendment of the Police (Complaints and Conduct) Regulations 2013	New Reg. Amends the 2013 regs to reflect the new Special Procedures provisions in 2017 Act (new para 19A in Sch 3)		
54. Amendment of the Public Interest Disclosure (Prescribed Persons) Order 2014	New reg to make a simple IOPC governance related consequential change that should have been made as part of Phase 2 changes (IOPC governance reforms)		

RESTRICTED



1. This Part of the note sets out an explanation of the changes and revisions made to the Police (Performance) Regulations as part of the Police Integrity Reform Programme.

Definitions

2. A new definition of “practice requiring improvement” has been added to Regulation 4 to reflect the new category of behaviour that is handled in accordance with the Police (Conduct) Regulations, this allows matters that have been previously handled in that way to be dealt with in certain circumstances in these Regulations, as reflected at Regulation 15.

Delegation

3. In Regulation 4, new paragraph (5) has been added which requires that where a matter has been referred directly to a stage 2 or stage 3 meeting in accordance with regulation 24 or 32 respectively, such a decision must be authorised by a senior officer.

Regulation 14

4. Regulation 14 – this sets out how matters referred under the Conduct Regulations will be dealt with, except where they meet the criteria to be referred directly to a second stage meeting. The Regulation cross-refers to specific Regulations within the Police (Conduct) Regulations which have been changed to allow matters which had been considered or investigated by those regulations to be referred and handled within the Performance Regulations.

Regulation 24

5. Regulation 24 now provides that a matter can be referred directly to a Stage 2 meeting, without a first stage meeting in specific circumstances. Such a referral can only be made following either (a) an assessment under Regulation 21(5)(b) of the Conduct Regulations or where misconduct proceedings are withdrawn under Regulation 25 of the Conduct Regulations AND the officer concerned has previously been investigated and provided sufficient opportunity to make sufficient improvement upon a serious inability or failure to perform and has failed to do so.
6. This regulation allows for a referral to the second stage where it can be demonstrated that a matter has been thoroughly investigated in accordance with the Conduct Regulations or Schedule 3 and it is clear that there are significant performance issues that should have been addressed but have not been. These regulations require that not only are there reasonable grounds that the officer concerned has demonstrated a serious inability or serious failure to perform the duties of their rank or role but also that sufficient opportunity to improve has been given but no sufficient improvement has been made.

Police Barred List

7. The regulations (31 and 33) have been updated to require an officer who is at risk of dismissal through these Regulations to be given notice that if dismissed they will be added to the Police Barred List, which mirrors changes previously made to the Conduct Regulations.