



Isle of Man
Government

Reiltys Ellan Vannin



DEPARTMENT OF HOME AFFAIRS

Consultation on the Police (Amendment) Bill 2015

2 June 2015

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Statement by the Minister for Home Affairs

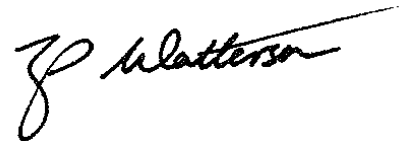
The impact the Isle of Man Constabulary has on our quality of life in the Island is significant and the scope and manner in which it performs its functions is very important. A few key factors are behind this Bill.

Firstly, the financial climate is such that we must determine which services are essential and which are not, and can therefore be dispensed with. Secondly, if the consensus is that certain functions of the Constabulary are essential, could they be performed in a different manner or by other people? What is certain is that resources are finite and the Constabulary, as with all our public services, must continue to adapt and change if it is to meet the demands of the 21st century.

Another factor behind the Bill is the Island's reputation as a well regulated jurisdiction that meets international standards of conduct. This includes having an accountable police force with a complaints system that enables all aspects of the conduct of the police force to be investigated and not just the performance of officers in individual cases. The Bill proposes to empower the Chief Constable to refer ("self-refer") matters that may not have been the subject of a complaint by an individual but nevertheless should be investigated. Examples include the discharge of a firearm by an officer or where death or serious injury occurs, whether in police custody or after contact with the police.

Finally, the Bill clarifies the law so it is possible to reappoint an incumbent Chief Constable.

An Impact Assessment and a copy of the draft Bill are attached to this consultation document. If you have any views on the proposals outlined within those documents, you are invited to send them to me, via the Department's Legislation Manager, at the Department of Home Affairs, 88 Woodbourne Road, Douglas, IM2 3AP, by **Wednesday 15th July 2015**. I can assure you that any views you do express will be considered with the utmost care.



Hon. Juan Watterson, BA(Hons), ACA, MHK
Minister for Home Affairs
2nd June 2015

Introduction

In order to perform its functions the Isle of Man Constabulary requires personnel and equipment, which are paid for out of Government revenue. The Department provides a number of key services that work to keep the community safe on an overall budget that reflects current financial exigencies. It is in this context that the Department is required, as a matter of financial inevitability, to either reduce services, or perform services in a different manner or find other ways of securing the performance of such services as are essential to maintain public safety and organisational effectiveness. The Department is aware of functions being performed very successfully in a different manner in another Police Force¹. Consequently, the Bill provides the Department with the legal powers necessary in order to perform some or a number of the functions of the Constabulary in a different manner to the current model.

Personnel and equipment are not by themselves enough because policing is performed by consent within the community and a means by which that consent is maintained is through being open to receive, and resolve, complaints from members of the public about the performance or conduct of officers. The current complaints process is working well. What it does not provide for is those occasions where no member of the public has made a complaint against an officer but where a firearm has been discharged, or death or serious injury has occurred in custody or following contact with the police. Neither is there any provision for other serious matters concerning police activity to be investigated. The Impact Assessment attached as Appendix A sets out the Department's, international and human rights imperatives in this matter.

The opportunity has also been taken to make a minor amendment in relation to the appointment procedure for the Chief Constable.

¹ Lincolnshire Police

SUMMARY OF THE BILL

Clauses 1 and 2 give the title of the Bill and state that the Act will come into operation on a day, or days, determined by the Department. Different provisions within the Act may be brought into operation on different days.

Clause 3 (Appointment of Chief Constable)

From time to time there can be fresh understanding of the law, notwithstanding the long exercise in good faith of the law in a certain manner. The Department has been made aware that section 2 of the Police Act 1993 does not appear to permit the re-appointment of an incumbent Chief Constable for a further term, or on an indefinite basis following the completion of a term of appointment, unless the post has been re-advertised and subjected to a fresh selection and interview process.

This clause inserts a new subsection (3A) to clarify that where the incumbent Chief Constable's term of office is about to expire, or has expired, the Department may, with the approval of the Council of Ministers, re-appoint the incumbent for a further term or, indeed, for an indefinite period without first advertising the position and then going through a fresh selection period. This change will enable the Department to retain the services of a Chief Constable, in the event that person is willing to continue in office.

Clause 4 (Police powers for contracted staff) inserts a new section 77C into the Police Powers and Procedures Act 1998. This provision empowers the Department to enter into a contract with a person or an organisation for the provision of services in connection with the police.

The Department may make an Order, subject to the approval of Tynwald, setting out those functions that may be contracted out. The Order can make any changes to the other legal provisions necessary to enable functions currently performed by police officers to be performed by other persons under the direction of the Chief Constable. Before making an Order the Department must consult the Chief Constable, the Police Complaints Commissioner, the Isle of Man Police Federation and such other persons as it thinks fit.

The contract may provide for specific services and functions to be performed, and set out the detail of the specification. Any contracting out provision will be undertaken in accordance with Treasury procurement guidelines and financial regulations. The initial view is that functions currently performed by constables in the Custody Suite could be contracted out. Other functions that may be assigned under contract could include investigating officers, road safety and miscellaneous support duties. No person, however, may be designated unless the Chief Constable has satisfied himself that the person is suitable, capable of effectively carrying out the relevant functions, and has received the necessary training.

Schedule 2A is inserted by subsection (2) of the clause (see pages 5, 6 and 7 of the consultation draft of the Bill) and enables the Chief Constable to assign functions set out in a designation to a contracted person. Those functions may be of a general nature, such as in respect of any or every function set out in the contract with the provider, or specific. An example of a specific designation would be as a person fulfilling the police investigation function or working in the custody suite.

The powers and duties of the contracted person are restricted to those assigned to the particular person and within the terms and conditions of the contract. The Schedule provides that the Order, under new section 77C, must apply to contracted persons the complaints provisions set out in Schedule 1 with appropriate modifications.

The Schedule also deals with penalties for offences against contracted staff in the execution of their duties.

QUESTION 1

The Department would value your views as to what other police functions could be contracted out.

QUESTION 2

If you do not consider it appropriate for any, or any particular, functions the police currently perform to be contracted out you are invited to explain why and indeed to accordingly indicate which functions you would be content for the police to cease performing.

Clause 5 (Complaints, conduct matters etc.) expands the legal provision in Schedule 1 of the Police Act 1993 to enable matters that are not the subject of a specific complaint by a member of the public to nevertheless be referred for investigation, either by a member of the police force or some other person, as the particular circumstances of the case require. These matters can be referred by the Chief Constable, known as "self-referral", or by the Police Complaints Commissioner. It is envisaged the Police Complaints Commissioner would only refer a matter where it came to his attention and despite discussion with the Chief Constable the latter had declined to "self-refer" the matter. In other words, only in exceptional circumstances.

The definitions in the Schedule in paragraph 1 have been expanded to define what are called "conduct matters" and "disciplinary proceedings". A conduct matter is one where there is an indication a member of the police force may have committed a criminal offence; or behaved in a manner that would justify bringing disciplinary proceedings. Conduct is also defined so it is clear conduct that may form the subject of a complaint or "self-referral" includes not only actions or failures to act (omissions), but statements and decisions (whether actual, alleged or inferred). The replacement of previous disciplinary procedures by two sets of regulations from the 1st April 2015 dealing with police performance and with police conduct means that the previous concept of a disciplinary matter resulting in a charge has changed. A member of the police force can now be investigated and then find themselves subject to proceedings due to issues connected with that officer's performance or/and due to issues connected with their conduct.

The definition of a member of the police force has been expanded so it includes a special constable as special constables can be involved in matters that may give rise to a complaint or a conduct matter just the same as regular police officers.

The Schedule to the consultation copy of the Bill makes the changes to the complaints procedure set out in Schedule 1 to the Police Act 1993. Appendix C to this document is a copy of Schedule 1 to the Police Act 1993 showing Schedule 1 to the Police Act as it would look after amendment by this Bill. (Bold for insertions/changes or words struck through where they will be deleted by the Bill.)

QUESTION 3

You are invited to indicate what further matters, in addition to death or serious injury following contact with the police, should be capable of being "self-referred" by the police for investigation.

QUESTION 4

The proposals provide for the Chief Constable and the Police Complaints Commissioner to have the power to “self-refer” matters for investigation. Should the Department also have the power to order an investigation of a specified matter in the event neither the Chief Constable nor the Police Complaints Commissioner does so?

Feedback to the consultation

The draft of the Bill has been prepared for the purposes of consultation. Further refinement of the layout and content of the Bill may be undertaken in the light of the responses to the consultation.

If you have any views or observations, or there is some point of clarification you would like to receive, you are invited to respond either by writing to —

Tom Bateman, Legislation Manager
Department of Home Affairs
“Homefield”, 88 Woodbourne Road
Douglas, IM2 3AP

or by emailing dhaconsultation@gov.im

The closing date for the receipt of comments is **Wednesday 15th July 2015**.

Unless specifically requested otherwise, any responses received may be published either in part or in their entirety, together with the name of the person or body which submitted the response. If you are responding on behalf of a group it would be helpful to make your position clear. To ensure that the process is open and honest responses can only be accepted if you provide your name with your response.

It may be useful, when giving your feedback, to make reference to the number and title of the specific provision(s) set out in the Bill that you wish to discuss.

The purpose of consultation is not to be a referendum but an information, views and evidence gathering exercise from which to take an informed decision on the content of proposed legislation or policy. In any consultation exercise the responses received do not guarantee changes will be made to what has been proposed.

Impact Assessment

IMPACT ASSESSMENT OF: Police (Amendment) Bill

DEPARTMENT: Home Affairs

DATE: 20/05/2015

VERSION NUMBER: 02

Responsible Officer: Tom Bateman, Legislation Manager

E-mail Address: tom.bateman@gov.im

Telephone number: 694305

SUMMARY: INTERVENTION AND OPTIONS

What is the Bill intended to do: The Bill is intended to do three things –

- i. broaden the scope of Schedule 1 to the Police Act 1993 to enable the referral of matters other than complaints by members of the public for investigation;
- ii. enable the Chief Constable to contract out some functions currently carried out by the police; and
- iii. empower the Department to re-appoint an incumbent Chief Constable without having to re-advertise the position and go through a fresh selection and interview process.

Nature of problem: Schedule 1 to the Police Act 1993 sets out what constitutes a complaint for the purposes of complaining about police conduct and the procedure to be followed. It does not, however, cater for those instances where contact with the police results in death or serious injury or where a firearm is discharged or generally where the serious or grave nature of police action or inaction merits investigation.

Severe and continuing budgetary pressure means the functions performed by the Constabulary have had to be examined to determine which functions must be performed and whether they may be performed in a more cost effective manner by persons other than police officers (i.e. "civilianised"). It has been identified that Primary legislation is necessary in order to provide the legal basis for such civilianisation and to empower contracted-out staff to perform such functions as are considered appropriate.

Purpose of Proposal: To enable the Island to fulfil its international obligations in relation to incidents involving contact with the Constabulary, increase its accountability and empower the Constabulary to fulfil some of its functions in a different and more cost effective manner.

Means by which it is to be achieved

Option 1: The Bill is not progressed.

If the Bill is not progressed it will not be possible for the Island to fulfil its international obligations² in relation to the independent investigation of incidents involving death or serious injury following contact with the police. The fact that there has been no major incident or issue to date does not mean the Island, in an era of heightened international scrutiny, is not vulnerable to challenge and possible negative international attention in the future.

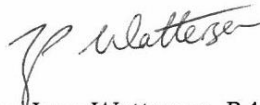
In relation to the "civilianisation" of police roles, failure to promote the Bill will mean it is not legally possible to contract-out certain functions currently performed by police officers. As indicated under resource issues below, contracting-out functions will reduce the number of services the police will have to discontinue as a result of budget reductions.

In respect of the appointment process relating to the Chief Constable, if the Bill is not moved it will not be possible to re-appoint the incumbent Chief Constable, if he and the Department wished him to continue in office beyond his current term, unless a full reselection process is undertaken. This would represent a waste of time and resources.

Option 2: (preferred option): Promote the Bill as drafted:

In the event the Bill is promoted as drafted the widening of the definition of a complaint in relation to the police will help meet international obligations and provide for greater accountability by, and confidence in, the police. It will be possible for the Chief Constable to fulfil certain of the Constabulary's functions in a more cost effective manner and will clarify the power of the Department to re-appoint the incumbent Chief Constable.

Ministerial sign off for Options stage I I have read the Impact Assessment and I am satisfied that given the available information, it represents a reasonable view of the likely costs/benefits and impact of the preferred option.



Hon. Juan Watterson, BA(Hons), ACA, MHK
Minister for Home Affairs

20 May 2015

SUMMARY: ANALYSIS AND EVIDENCE

²The European Court of Human Rights has held in *Jordan v UK* [2003] 37 EHRR 2 and *Edwards v UK* (2002) 35 EHHR 487 that the investigation must:

- be on the State's own initiative (e.g., not civil proceedings)
- be independent, both institutionally and in practice
- be capable of leading to a determination of whether the force used was justified in the circumstances, and to the identification and punishment of those responsible
- be prompt
- allow for sufficient public scrutiny to ensure accountability
- allow the next of kin to participate.

These principles were approved by the House of Lords in the case of *R (ex parte Amin) v Secretary of State for the Home Department* [2003] UKHL 51 (the *Zahid Mubarek* case).

The requirements under Article 2 of the ECHR are relevant and can extend to any situation in which death or serious injury occurs during a police operation.

IMPACT OF PROPOSAL

Resource Issues - Financial (including personnel):

Statement: The Bill is not expected to result in any increase in costs to, or personnel employed by, Government.

Likely Financial Benefits One Off: None.

Estimated Average Annual savings (excluding one off):

Civilianisation of police officer functions

Once this legislation has come into operation the Constabulary anticipate it will reduce the necessity to discontinue other police services by freeing up six police officers from the custody suite whose duties can be utilised elsewhere. Savings relating to other functions that may be civilianised are more difficult to identify as no plans have yet been drawn up and thus potential savings have yet to be identified.

Are there any costs or benefits that are not financial i.e. social:

The proposal in respect of police complaints/"self-referral" is not expected to result in any financial savings. However, it has two key benefits. Firstly it is about ensuring the Island meets international and human rights obligations in terms of the independent investigation of incidents where death or serious injury has occurred following contact with the police. Secondly, it would enable other serious or significant incidents³ involving police activity to be investigated and this will have the benefit of demonstrating the Constabulary is accountable for its actions whether or not an individual complains about the conduct of a particular officer or officers.

Has Treasury Concurrence been given for the preferred option?: The Bill would not be intended to increase or decrease the revenue of Government, and consequently concurrence has not been sought.

Key Assumptions:

Key assumptions are —

1. the Island's standing in the international community is important and a sound reputation in policing as well as other matters is good not just for the Island's self-image but also for business;
2. public confidence in the police will be further enhanced because it will be possible to have other matters investigated that have not necessarily involved a particular individual officer or officers; and
3. there will be public support for the Constabulary to be empowered to explore whether some of its functions can be performed in a more cost effective manner. The purpose is to ensure the Chief Constable can safeguard the performance of other key functions necessary to maintain the effectiveness of the police service in terms of preserving and enhancing public safety and law enforcement.

Approximate date for legislation to be implemented if known:

Following public consultation and review the Department would like to introduce the

³The kind of incidents this would apply to would be set out in secondary legislation.

legislation into the Branches during the 2015/2016 legislative year.

Link to Agenda For Change: Good government.

Link to Department/Statutory Board/Office Aims and Objectives:

Ensure the delivery of the Department of Home Affairs' Bills in accordance with the Legislative Programme and compliance with the Island's international obligations.

SUMMARY: CONSULTATION

Consultation in line with Government standard consultation process: This is a short Bill and it is therefore considered a standard period of 6 weeks for the receipt of views from the public is sufficient.

Date:

Statement:

APPENDIX B

POLICE (AMENDMENT) BILL 2015

Arrangement of sections

1. Short title
2. Commencement
3. Appointment of Chief Constable
4. Police powers for contracted staff
- 5 5. Complaints and conduct matters

Schedule — Amendments of Schedule 1 to the Police Act 1993

A BILL

To amend the Police Act 1993 and the Police Powers and Procedures Act 1998; and for connected purposes

BE IT ENACTED, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

1. Short title

The short title of this Act is the Police (Amendment) Act 2015.

2. Commencement

5 (1) This Act (other than section 1 and this section) comes into operation on a day appointed by the Department of Home Affairs.

(2) Different days may be appointed for different provisions and different purposes.

10 (3) An order under subsection (1) may make such transitional and saving provisions as the Department of Home Affairs considers necessary or expedient.

3. Appointment of Chief Constable

In section 2 of the Police Act 1993 —

(a) after subsection (3) insert —

15 "(3A) Where the Department has (under subsection (3) or this subsection) appointed a person to be the Chief Constable for a fixed term which has expired or is about to expire, it may, with the approval of the Council of Ministers, appoint that person to be Chief Constable
20 either —

(a) for an indeterminate period, or

(b) for a further fixed term;

and subsection (2) shall not apply to an appointment under this subsection.";

(b) in subsection (4), for "subsection (3)" substitute "subsections (3) and (3A)".

5

4. Police powers for contracted staff

(1) After section 77B of the Police Powers and Procedures Act 1998 insert —

"Police powers for contracted staff

10

77C Police powers for contracted staff

(1) This section has effect for the purpose of enabling the Department to enter into a contract with a person for the supply by that person of services in assistance of the police force.

15

(2) The Department may by order provide for conferring or imposing powers and duties specified in the order, being powers and duties of a member of the police force, on persons, not being members of the police force, who are employed by a contractor for the purpose of exercising functions assigned to them in pursuance of such a contract.

20

(3) An order under this section shall specify —

(a) the functions which may be assigned in pursuance of the order to contracted staff;

25

(b) the title by which contracted staff to whom a particular function is, or functions of a particular class or description are, so assigned are to be known; and

30

(c) the powers and duties which may be conferred or imposed on contracted staff to whom a particular function is, or functions of a particular class or description are, so assigned.

35

(4) An order under this section may under subsection (3)(a) specify functions which, apart from the order, would be reserved to a member of the police force.

- (5) An order under this section may under subsection (3)(c) specify powers and duties —
- 5 (a) which are, by virtue of the order, conferred or imposed on all contracted staff to whom a specified function is, or functions of a specified class or description are, so assigned; or
- (b) which may be conferred or imposed by a designation on contracted staff to whom a specified function is, or functions of a specified class or description are, so assigned.
- 10 (6) An order under this section may modify in its application to contracted staff any statutory provision relating to the exercise by members of the police force of any power or duty referred to in subsection (3)(c).
- 15 (7) Before making an order under this section the Department shall consult —
- (a) the Chief Constable;
- (b) the commissioner appointed under paragraph 2(1) of Schedule 1 to the Police Act 1993;
- 20 (c) the Isle of Man Police Federation; and
- (d) such other persons as the Department thinks fit.
- (8) An order under this section shall not have effect unless it is approved by Tynwald.
- (9) Schedule 2A shall have effect for the purposes of this section.
- 25 (10) In this section and Schedule 2A —
- "contractor" means a person with whom the Department has entered into a contract mentioned in subsection (1);
- 30 "contracted staff" means persons employed by a contractor as mentioned in subsection (2), and "contracted person" means such a person;
- "designation" means a designation under paragraph 1 of Schedule 2A."
- 35 (2) After Schedule 2 to that Act insert —
- "SCHEDULE 2A
CONTRACTED STAFF

Designation of contracted staff

1. (1) The Chief Constable may by a designation in writing (and not otherwise) assign functions specified in the designation to a contracted person named in it.
- 5 (2) A contracted person so designated —
- (a) shall have the powers and duties conferred or imposed on him —
- (i) by any relevant provision made under section 77C(5)(a), and
- (ii) by the designation in accordance with section 77C(5)(b); and
- (b) when exercising any of those powers or performing any of those
- 10 duties, shall act under the direction and control of the Chief Constable.
- (3) The Chief Constable shall not designate a contracted person under this paragraph unless he is satisfied that that person—
- (a) is a suitable person to carry out the functions assigned to him;
- 15 (b) is capable of effectively carrying out those functions; and
- (c) has received adequate training in the carrying out of those functions and in the exercise and performance of the powers and duties to be conferred or imposed on him as mentioned in sub-paragraph (2)(a).
- 20 (4) The Chief Constable shall not designate a contracted person under this paragraph unless he is satisfied that the contractor is a fit and proper person to supervise the carrying out of the functions assigned to the contracted person.
- (5) A designation, unless it is previously withdrawn or ceases to have effect in accordance with sub-paragraph (6), shall remain in force for such period as may be specified in the designation; but it may be renewed at any time with effect from the time when it would otherwise expire.
- 25 (6) A designation shall cease to have effect—
- (a) if the contracted person ceases to be an employee of the contractor;
- (b) if the contract between the Department and the contractor is terminated or expires; or
- (c) if it is withdrawn under sub-paragraph (7).
- (7) The Chief Constable may at any time, by notice to a contracted person,
- 35 modify or withdraw a designation.
- (8) Where a contracted person's designation is modified or withdrawn, the Chief Constable shall send a copy of the notice to the contractor by whom that person is employed.

40

Powers and duties of contracted staff

2. (1) A contracted person authorised or required to do anything by virtue of a designation —

- (a) shall not be authorised or required by virtue of that designation to engage in any conduct otherwise than in the course of his employment by the contractor; and
- 5 (b) shall be so authorised or required subject to such restrictions and conditions (if any) as may be specified in that designation.
- (2) Where any power exercisable by any person in reliance on his designation is a power which, in the case of its exercise by a constable, includes or is supplemented by a power to use reasonable force, any person exercising that power in reliance on that designation shall have
- 10 the same entitlement as a constable to use reasonable force.
- (3) Where any power exercisable by any person in reliance on his designation under this section includes power to use force to enter any premises, that power shall not be exercisable by that person except—
- (a) in the company, and under the supervision, of a constable; or
- 15 (b) for the purpose of saving life or limb or preventing serious damage to property.
- (4) A contracted person who exercises or performs any power or duty in relation to any person in reliance on his designation, or who purports to do so, shall produce that designation to that person, if requested to do so.
- 20 (5) Except in such circumstances as may be specified in an order under section 77C, a power exercisable by a contracted person in reliance on his designation shall be exercisable only by a person wearing such uniform as may be—
- 25 (a) determined or approved by the Chief Constable for the purpose of this sub-paragraph; and
- (b) identified or described in the designation.

Complaints etc.

- 30 3. (1) An order under section 77C shall apply to contracted persons the provisions of Schedule 1 to the Police Act 1993 with respect to complaints against or misconduct of members of the police force, with such modifications as are specified in the order.
- (2) For the purposes of determining liability for the unlawful conduct of contracted staff, conduct by a contracted person in reliance or
- 35 purported reliance on a designation shall be taken to be conduct in the course of his employment by the contractor by whom he is employed; and, in the case of a tort, that contractor shall fall to be treated as a joint tortfeasor accordingly.

Offences against contracted staff

- 40 4. (1) Any person who assaults a contracted person in the execution of his duty is guilty of an offence and liable on summary conviction to custody for a term not exceeding 12 months or to a fine not exceeding £5,000, or to both.
- (2) Any person who resists or wilfully obstructs a contracted person in the
- 45 execution of his duty is guilty of an offence and liable on summary

conviction to custody for a term not exceeding one month or to a fine not exceeding £1,000, or to both.

(3) Any person who, with intent to deceive —

(a) impersonates a contracted person,

5 (b) makes any statement or does any act calculated falsely to suggest that he is a contracted person, or

(c) makes any statement or does any act calculated falsely to suggest that he has powers as a contracted person that exceed the powers he actually has,

10 is guilty of an offence and liable on summary conviction to custody for a term not exceeding 12 months or to a fine not exceeding £5,000, or to both.

15 (4) In this paragraph references to the execution by a contracted person of his duty are to his exercising any power or performing any duty conferred or imposed on him as mentioned in paragraph 1(2)(a)."

5. Complaints and conduct matters

(1) In section 9 of the Police Act 1993 —

(a) for the side-heading substitute "Complaints and conduct matters";

20 (b) at the end insert ", and the investigation of certain other matters relating to the conduct of the police".

(2) Schedule 1 to that Act is amended in accordance with the Schedule to this Act.

25 (3) This section applies to matters arising before as well as after this section comes into operation.

SCHEDULE

AMENDMENTS OF SCHEDULE 1 TO THE POLICE ACT 1993

Interpretation

1. (1) In paragraph 1, at the appropriate places in alphabetical order insert —

5 ""conduct" includes acts, omissions and statements (whether actual, alleged or inferred), and "behave" has a corresponding meaning;"

 ""conduct matter" means 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 member of the police force may have —

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

15 ""disciplinary proceedings" means proceedings against a member of the police force under regulations made by virtue of section 8(2)(e) or 8A(2)(c);"

 ""member of the police force" includes a special constable;"

 ""police custody" means —

- 20 (a) police detention (within the meaning of the Police Powers and Procedures Act 1998); or
- (b) the custody of a member of the police 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."

25 (2) In paragraph 1, in the definition of "investigation", for "paragraph 4 into a complaint" substitute "paragraph 4, 4B or 4D".

Complaints

2. In paragraph 4, after sub-paragraph (5) insert —

30 "(6) A complaint is not suitable for informal resolution if the conduct to which it relates —

- (a) involves the death of, or serious injury to, any person; or
- (b) is of a description specified for the purposes of this sub-paragraph in regulations made by the Department."

Conduct matters

35 3. After paragraph 4 insert —

"Reference of conduct matters in certain cases

4A (1) The Chief Constable shall refer to the commissioner any conduct matter which comes to his attention, if it appears to the Chief Constable that the conduct in question —

- 40 (a) has resulted in the death of, or serious injury to, any person;

- (b) has caused a member of the public to suffer, or to be in danger of suffering, any harm, loss, damage, distress or inconvenience; or
- (c) is of a description specified for the purposes of this sub-paragraph in regulations made by the Department.
- (2) Nothing in sub-paragraph (1) requires the Chief Constable to refer any conduct matter if he 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.
- (3) The Chief Constable shall refer to the commissioner any conduct matter if the commissioner notifies him that the matter is to be referred to the commissioner for consideration.
- (4) The Chief Constable may refer to the commissioner any conduct matter (other than one falling within sub-paragraph (1) or (3)) if the Chief Constable considers that it would be appropriate to do so by reason of —
- (a) the gravity of the matter; or
- (b) any exceptional circumstances.

20

Action on a reference under paragraph 4A

- 4B. (1) The commissioner shall determine whether any conduct matter referred to him by the Chief Constable under paragraph 4A should be investigated, and shall inform the Chief Constable of his determination.
- (2) If the commissioner determines under sub-paragraph (1) that a conduct matter should be investigated, the Chief Constable shall, after consultation with the commissioner, appoint a member of the police force to investigate it formally.

25

Notification of other cases involving death or serious injury

- 4C. (1) This paragraph applies to any circumstances in or in consequence of which a person has died or suffered serious injury while in police custody.
- (2) This paragraph also applies to any circumstances in or in consequence of which a person has died or suffered serious injury if —
- (a) the death or injury occurred while or after the person had contact (of whatever kind, and whether direct or indirect) with a member of the police force 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 injury.
- (3) The Chief Constable shall notify the commissioner of any circumstances to which this paragraph applies, unless —
- (a) they are or have been the subject of a complaint;

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- (b) they amount to a conduct matter; or
- (c) if he is satisfied that they have been, or are already being, dealt with by means of criminal or disciplinary proceedings against any person.

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Action on a notification under paragraph 4C

4D. (1) The commissioner shall determine whether any circumstances notified to him by the Chief Constable under paragraph 4C should be investigated, and shall inform the Chief Constable of his determination.

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(2) If the commissioner determines under sub-paragraph (1) that any circumstances should be investigated, the Chief Constable shall, after consultation with the commissioner, appoint a member of the police force to investigate them formally.

Change of scope of investigation

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4E. (1) Subject to sub-paragraph (2), the commissioner may, after consultation with the Chief Constable, direct that any matter which is being, or is to be, investigated under paragraph 4, paragraph 4B or paragraph 4D shall instead be investigated under another of those provisions.

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(2) The commissioner may not direct that a complaint which is being, or is to be, investigated under paragraph 4 be investigated under paragraph 4B or 4D unless the complaint is withdrawn or the complainant indicates that he does not wish any further steps to be taken."

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Supervision of investigations

4. (1) In paragraph 5, after sub-paragraph (1) insert —

"(1A) The commissioner shall supervise the investigation of any conduct matter —

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- (a) which appears to him to have resulted in the death of, or serious injury to, any person; or
- (b) in which it appears to him that a member of the police force may have committed an offence falling within sub-paragraph (1)(b).

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(1B) The commissioner shall supervise the investigation of any circumstances under paragraph 4D(2)."

(2) In paragraph 5(2), after "complaint" insert "or conduct matter", and after "sub-paragraph (1)" insert "or (1A), as the case may be,".

(3) In paragraph 5(3)(a), after "paragraph 4(1) or (3)" insert ", 4B(2) or 4D(2)".

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Report on investigation

5. (1) In paragraph 6(3)(c)(i) and (4), for "the complainant" substitute "any complainant".

(2) In paragraph 6(5), for "disciplinary charge" substitute "disciplinary proceedings".

(4) Subject to sub-paragraph (5), the Chief Constable shall refer a case to disciplinary proceedings in accordance with a direction under sub-paragraph (3) and shall not withdraw the case.

(5) The commissioner may give the Chief Constable permission —

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- (a) not to refer to disciplinary proceedings a case which paragraph 7(6) or sub-paragraph (4) would otherwise oblige him to refer; or
 - (b) to withdraw a case which paragraph 7(6A) or sub-paragraph (2) or (4) would otherwise oblige him not to withdraw."

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Regulations

8. (1) In paragraph 13, after sub-paragraph (1) insert —

"(1A) Without prejudice to the generality of sub-paragraph (1), regulations under that sub-paragraph may prescribe —

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- (a) the time within which any conduct matter is to be referred to the commissioner or any case is to be notified to the commissioner under paragraph 4C;
 - (b) the information and evidence to be supplied to the commissioner on any such reference or notification; and
 - (c) the steps to be taken to obtain and preserve evidence relating to the subject matter of the complaint, conduct matter or notification."
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(2) In paragraph 13(2), at the appropriate places insert —

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- "(aa) subject to such exceptions as may be so specified, for the furnishing of particulars of any conduct matter referred to the commissioner under paragraph 4A to the person to whose conduct the matter relates;"
 - "(ba) for giving the person to whose conduct a conduct matter relates an opportunity to comment orally or in writing on the matter;"
 - 30 "(da) for the notification of the outcome of the reference of any conduct matter under paragraph 4A to the person to whose conduct the matter relates;"

and omit paragraph 13(2)(h).

(3) After paragraph 13(2) insert —

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- "(3) The Department shall provide by regulations for the investigation, in such cases as may be specified in the regulations, of a complaint or a conduct matter by —
- (a) a member of a police force in a relevant territory, appointed for the purpose in accordance with arrangements made with the authority by which the force is maintained; or
 - 40 (b) a member or officer of a body, or the holder of an office or an officer of such an office-holder, having functions in a relevant territory corresponding to any functions of the commissioner, appointed for the purpose in accordance with arrangements made with that body or office-holder; and
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- (c) for the modification of the foregoing provisions of this Schedule in relation to such an investigation.
- (4) In paragraph (3) "relevant territory" means any part of the United Kingdom, any of the Channel Islands or the Republic of Ireland."

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~~COMPLAINTS AGAINST THE POLICE~~

COMPLAINTS, CONDUCT MATTERS ETC.

Interpretation

1. In this Schedule —

"complainant" means a person by whom a complaint is made;

"complaint" means a complaint about the conduct of a member of the police force which is submitted in writing by a member of the public, or on behalf of a member of the public and with his written consent;

"conduct" includes acts, omissions and statements (whether actual, alleged or inferred), and "behave" has a corresponding meaning;

"conduct matter" means 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 member of the police force may have—

(a) committed a criminal offence; or

(b) behaved in a manner which would justify the bringing of disciplinary proceedings;

"the commissioner" means the person appointed under paragraph 2(1);

"disciplinary proceedings" means proceedings against a member of the police force under regulations made by virtue of section 8(2)(e) or 8A(2)(c);

"investigation" means an investigation under ~~paragraph 4 into a complaint~~ **paragraph 4, 4B or 4D;**

"member of the police force" includes a special constable;

"police custody" means —

(a) police detention (within the meaning of the Police Powers and Procedures Act 1998); or

(b) the custody of a member of the police 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.

The commissioner

2. (1) The Governor, after consultation with the Department, shall appoint a person (by such title as the Department may determine) to perform the functions conferred on the commissioner under this Schedule.

(2) A person shall not be qualified to be so appointed —

(a) if he is or has at any time been a member of any police force (in the Island or elsewhere); or

(b) if he is a member of the Council or the Keys.

(3) Subject to sub-paragraphs (4) and (5), the commissioner shall hold office for a term of 3 years, but on the expiry of that term shall be eligible for reappointment.

(4) The Governor, with the consent of the Department, may remove the commissioner from office by not less than 3 months' notice in writing.

(5) The commissioner may at any time resign his office by not less than 3 months' notice in writing to the Chief Secretary.

(6) The Department shall pay to the commissioner such fees and allowances as it may with the concurrence of the Treasury determine.

(7) The Civil Service Commission shall make such arrangements as it considers appropriate for the provision of staff to assist the commissioner.

Initial steps on complaint

3. Where a complaint is submitted to the Chief Constable, he shall —

- (a) record the complaint;
- (b) take any steps that appear to him to be desirable for the purpose of obtaining or preserving evidence relating to the conduct complained of;
- (c) furnish particulars of the complaint to the commissioner; and
- (d) consider whether the complaint is suitable for informal resolution.

Standard procedure

4. (1) If it appears to the Chief Constable that a complaint is not suitable for informal resolution, he shall, after consultation with the commissioner, appoint a member of the police force to investigate it formally.

(2) If it appears to the Chief Constable that a complaint is suitable for informal resolution, he shall seek to resolve it informally and may appoint a member of the police force to do so on his behalf.

(3) If it appears to the Chief Constable, after attempts have been made to resolve a complaint informally —

- (a) that informal resolution of the complaint is impossible, or
- (b) that the complaint is for some other reason not suitable for informal resolution,

he shall, after consultation with the commissioner, appoint a member of the police force to investigate it formally.

(4) A member of the police force may not be appointed to investigate a complaint formally if he has previously been appointed to act in relation to it under sub-paragraph (2).

(5) A complaint is not suitable for informal resolution unless —

- (a) the member of the public concerned gives his consent, and
- (b) the Chief Constable is satisfied that the conduct complained of, even if proved, would not justify a criminal or disciplinary charge.

(6) A complaint is not suitable for informal resolution if the conduct to which it relates —

- (a) involves the death of, or serious injury to, any person; or**
- (b) is of a description specified for the purposes of this sub-paragraph in regulations made by the Department.**

Reference of conduct matters in certain cases

4A (1) The Chief Constable shall refer to the commissioner any conduct matter which comes to his attention, if it appears to the Chief Constable that the conduct in question —

- (a) has resulted in the death of, or serious injury to, any person;**
- (b) has caused a member of the public to suffer, or to be in danger of suffering, any harm, loss, damage, distress or inconvenience; or**
- (c) is of a description specified for the purposes of this sub-paragraph in regulations made by the Department.**

(2) Nothing in sub-paragraph (1) requires the Chief Constable to refer any conduct matter if he 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.

(3) The Chief Constable shall refer to the commissioner for consideration any conduct matter if the commissioner notifies him that the matter is to be so referred.

(4) The Chief Constable may refer to the commissioner any conduct matter (other than one falling within sub-paragraph (1) or (3)) if the Chief Constable considers that it would be appropriate to do so by reason of —

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

Action on a reference under paragraph 4A

4B. (1) The commissioner shall determine whether any conduct matter referred to him by the Chief Constable under paragraph 4A should be investigated, and shall inform the Chief Constable of his determination.

(2) If the commissioner determines under sub-paragraph (1) that a conduct matter should be investigated, the Chief Constable shall, after consultation with the commissioner, appoint a member of the police force to investigate it formally.

Notification of other cases involving death or serious injury

4C. (1) This paragraph applies to any circumstances in or in consequence of which a person has died or suffered serious injury while in police custody.

(2) This paragraph also applies to any circumstances in or in consequence of which a person has died or suffered serious injury if —

- (a) the death or injury occurred while or after the person had contact (of whatever kind, and whether direct or indirect) with a member of the police force 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 injury.**

(3) The Chief Constable shall notify the commissioner of any circumstances to which this paragraph applies, unless —

- (a) they are or have been the subject of a complaint;**
- (b) they amount to a conduct matter; or**
- (c) if he is satisfied that they have been, or are already being, dealt with by means of criminal or disciplinary proceedings against any person.**

Action on a notification under paragraph 4C

4D. (1) The commissioner shall determine whether any circumstances notified to him by the Chief Constable under paragraph 4C should be investigated, and shall inform the Chief Constable of his determination.

(2) If the commissioner determines under sub-paragraph (1) that any circumstances should be investigated, the Chief Constable shall, after consultation with the commissioner, appoint a member of the police force to investigate them formally.

Investigators

4E. If in the opinion of the Chief Constable it is appropriate to do so in any particular case, the Chief Constable may, with the consent of the commissioner, appoint a suitable person, not being a member of the police force, to conduct an investigation under paragraph 4, 4B or 4D, and in that event any reference in this Schedule to the member of the police force conducting the investigation shall be construed accordingly.

Change of scope of investigation

4F. (1) Subject to sub-paragraph (2), the commissioner may, after consultation with the Chief Constable, direct that any matter which is being, or is to be, investigated under paragraph 4, paragraph 4B or paragraph 4D shall instead be investigated under another of those provisions.

(2) The commissioner may not direct that a complaint which is being, or is to be, investigated under paragraph 4 be investigated under paragraph 4B or 4D unless the complaint is withdrawn or the complainant indicates that he does not wish any further steps to be taken.

Supervision of investigations

5. (1) The commissioner shall supervise the investigation of any complaint—

(a) alleging that the conduct of a member of the police force resulted in the death of or serious injury to some other person; or

(b) alleging conduct which, if shown to have occurred, would constitute —

(i) an offence under the Bribery Act 2013; or

(ii) an offence of a description specified in regulations made by the Department for the purposes of this sub-paragraph.

(1A) The commissioner shall supervise the investigation of any conduct matter —

(a) which appears to him to have resulted in the death of, or serious injury to, any person; or

(b) in which it appears to him that a member of the police force may have committed an offence falling within sub-paragraph (1)(b).

(1B) The commissioner shall supervise the investigation of any circumstances under paragraph 4D(2).

(2) The commissioner may supervise the investigation of any complaint **or conduct matter** not falling within sub-paragraph (1) **or (1A), as the case may be**, where it appears to him to be desirable in the public interest to do so; and where the commissioner decides to supervise an investigation under this sub-paragraph he shall notify the Chief Constable of his decision.

(3) Where an investigation is to be supervised by the commissioner he may require —

(a) that no appointment shall be made under paragraph 4(1) or (3), **4B(2) or 4D(2)** unless he has notified the Chief Constable that he approves the member of the police force whom the Chief Constable proposes to appoint;

(b) if such an appointment has already been made and the commissioner is not satisfied with the member of the police force appointed, that —

(i) the Chief Constable shall, as soon as reasonably practicable, select another member of the police force and notify the commissioner that he proposes to appoint him; and

(ii) the appointment shall not be made unless the commissioner gives notice to the Chief Constable that he approves that member.

(4) Subject to sub-paragraphs (5) and (6), the commissioner may where he undertakes the supervision of an investigation, issue directions imposing such additional reasonable requirements as to the conduct of the investigation as appears to him to be necessary and are specified in the directions; and it shall be the duty of the member of the police force conducting the investigation to comply with any such requirement imposed on him.

(5) Where at any stage of an investigation the possibility of criminal proceedings arises, the commissioner shall not under sub-paragraph (4) impose any requirement relating to the obtaining or preservation of evidence of a criminal offence without first obtaining the consent of the Attorney General.

(6) The commissioner shall not under sub-paragraph (4) impose any requirement relating to the resources to be made available by the Chief Constable for the purposes of an investigation without first consulting him and having regard to any representations he may make.

Report on investigation

6. (1) At the end of an investigation (except one supervised under paragraph 5) the member of the police force conducting the investigation shall submit his report on the investigation to the Chief Constable.

(2) At the end of an investigation supervised under paragraph 5 the member of the police force conducting the investigation shall —

(a) submit his report on the investigation to the commissioner, and

(b) send a copy to the Chief Constable.

(3) After considering a report submitted under sub-paragraph (2)(a) the commissioner shall submit to the Chief Constable a statement —

(a) whether the investigation was or was not conducted to the commissioner's satisfaction;

(b) specifying any respect in which it was not so conducted and as to which the commissioner considers that his dissatisfaction ought to be recorded; and

(c) dealing with such other matters relating to the investigation or the supervision of it as the commissioner considers should be —

(i) brought to the attention of the Chief Constable, ~~the complainant~~ **any complainant** or the officer under investigation, or

(ii) dealt with in the public interest.

(4) Unless it is impracticable to do so, the commissioner shall send a copy of a statement under sub-paragraph (3) to ~~the complainant~~ **any complainant** and to the officer whose conduct has been investigated.

(5) No ~~disciplinary charge~~ **disciplinary proceedings** shall be brought before a statement under sub-paragraph (3) has been submitted to the Chief Constable.

(6) Neither the Chief Constable nor the Attorney General shall bring criminal proceedings before a statement under sub-paragraph (3) has been submitted to the Chief Constable, unless it appears to the Attorney General that there are exceptional circumstances which make it undesirable to wait for the submission of the statement.

Steps to be taken after investigation

7. (1) On receiving a report or a copy of a report submitted or sent to him under paragraph 6, the Chief Constable shall —

(a) decide whether the report indicates that a criminal offence may have been committed by a member of the police force;

(b) if he decides that it does, consider whether the offence is such that the member ought to be charged with it; and

(c) if he considers that it is, send a copy of the report to the Attorney General.

(2) After the Attorney General has dealt with the question of criminal proceedings, the Chief Constable shall send to the commissioner a memorandum, signed by him and stating whether he has ~~preferred disciplinary charges in respect of the conduct which was the subject of the investigation~~ **referred the conduct which was the subject of the investigation to disciplinary proceedings** and, if not, his reasons for not doing so.

(3) If the Chief Constable —

(a) decides that the report indicates that a criminal offence may have been committed by a member of the police force, and considers that the offence is not such that the member ought to be charged with it; or

(b) decides that the report does not indicate that a criminal offence may have been committed by a member of the police force, he shall send to the commissioner a memorandum to that effect, signed by him and stating whether or not he has ~~preferred or proposes to prefer disciplinary charges in respect of the conduct which was the subject of the investigation~~ **referred or proposes to refer the conduct which was the subject of the investigation to disciplinary proceedings** and, if not, his reasons for not doing so or proposing to do so.

(4) A memorandum under this paragraph shall —

(a) give particulars of any disciplinary charges which the Chief Constable has preferred or proposes to prefer in respect of the conduct which was the subject of the investigation; and

(b) **in the case of an investigation under paragraph 4**, state his opinion of the complaint to which it relates.

(5) Where the investigation was not supervised by the commissioner, the Chief Constable shall send with the memorandum a copy of the report of the investigation.

~~(6) Subject to paragraph 9(5), if a memorandum under sub-paragraph (2) states that the Chief Constable proposes to prefer, or has preferred, disciplinary charges, he shall prefer and proceed with them, or proceed with them, as the case may be~~

(6) Subject to paragraph 9(5), if a memorandum under sub-paragraph (2) states that the Chief Constable proposes to refer the conduct which was the subject of the investigation to disciplinary proceedings, he shall refer the conduct and shall not withdraw the case.

(6A) Subject to paragraph 9(5), if a memorandum under sub-paragraph (2) states that the Chief Constable has referred the conduct which was the subject of the investigation to disciplinary proceedings, he shall not withdraw the case.

~~(7) No memorandum need be sent under this paragraph if disciplinary charges have been preferred in respect of the conduct which was the subject of the investigation and the accused has admitted the charges and has not withdrawn his admission.~~

(7) No memorandum need be sent under this paragraph if the conduct which was the subject of the investigation has been referred to disciplinary proceedings and

the officer concerned has admitted the conduct and that it amounted to misconduct or gross misconduct, and has not withdrawn his admission.

(8) In such a case the Chief Constable shall send to the commissioner, after the conclusion of the disciplinary proceedings —

(a) particulars of the ~~disciplinary charges preferred and of any punishment imposed~~ **conduct which was the subject of the investigation and of any disciplinary action taken**, and

(b) where the investigation was not supervised by the commissioner, a copy of the report of the investigation.

Power to direct reference to Attorney General

8. (1) When the Chief Constable has performed all the duties imposed on him by paragraph 7 in relation to the report of an investigation, the commissioner shall —

(a) decide whether the report indicates that a criminal offence may have been committed by a member of the police force;

(b) if he decides that it does, consider whether the offence is such that the member ought to be charged with it; and

(c) if he considers that it is, send a copy of the report to the Attorney General.

(2) Where the commissioner sends a copy of a report to the Attorney General under sub-paragraph (1)(c) he shall —

(a) notify the Chief Constable that he has done so, and

(b) direct him to send to the Attorney General the information contained in the memorandum under paragraph 7.

Power as to disciplinary charges

9. (1) Where a memorandum under paragraph 7 states that the Chief Constable has not ~~preferred disciplinary charges~~ **referred the conduct which was the subject of the investigation to disciplinary proceedings** or does not propose to do so, the commissioner may recommend him to ~~prefer such disciplinary charges as he may specify~~ **do so**.

(2) Subject to sub-paragraph (5), the Chief Constable may not withdraw ~~charges which he has preferred~~ **any case which he has referred to disciplinary proceedings** in accordance with a recommendation under sub-paragraph (1).

(3) If, after the commissioner has made a recommendation under this paragraph and consulted him, the Chief Constable is still unwilling to ~~prefer such charges as the commissioner considers appropriate~~ **refer the conduct to disciplinary proceedings**, the commissioner may direct him to ~~prefer such charges as he may specify~~ **so to refer that conduct**, and where the commissioner does so, he shall furnish him with a written statement of his reasons for doing so.

(4) Subject to sub-paragraph (5), the Chief Constable shall ~~prefer and proceed with charges specified in~~ **refer a case to disciplinary proceedings in accordance with** a direction under sub-paragraph (3) **and shall not withdraw the case**.

~~(5) The commissioner may give the Chief Constable permission —~~

~~(a) not to prefer charges which paragraph 7(6) or sub-paragraph (4) would otherwise oblige him to prefer; or~~

~~(b) not to proceed with charges with which paragraph 7(6) or sub-paragraph (2) or (4) would otherwise oblige him to proceed.~~

(5) The commissioner may give the Chief Constable permission —

- (a) not to refer to disciplinary proceedings a case which paragraph 7(6) or sub-paragraph (4) would otherwise oblige him to refer; or**
(b) to withdraw a case which paragraph 7(6A) or sub-paragraph (2) or (4) would otherwise oblige him not to withdraw.

Information as to manner of dealing with complaints .

10. The Department in carrying out its duties under section 1 shall keep itself informed as to the working of the foregoing provisions of this Schedule in relation to the police force.

Reports etc

11. (1) The Chief Constable shall furnish the commissioner with such particulars of all complaints which have been resolved informally, at such intervals, as the commissioner may direct.

(2) The commissioner shall, at the request of the Department, report to it on such matters relating generally to his functions as the Department may specify.

(3) The commissioner may make a report to the Department on any matters coming to his notice under this Schedule to which he considers that its attention should be drawn by reason of their gravity or of other exceptional circumstances, and the commissioner shall send a copy of any such report to the Chief Constable.

(4) As soon as practicable after the end of each year the commissioner shall make to the Department a report on the performance of his functions during that year.

(5) The Department shall cause a copy of every report received by it under sub-paragraph (4) to be laid before Tynwald.

Restriction on disclosure of information

12. (1) No information received by the commissioner in connection with any of his functions under this Schedule or regulations under paragraph 13 shall be disclosed by the commissioner or by any member of his staff except —

(a) to the Department or the commissioner or a member of his staff or, so far as may be necessary for the proper performance of the commissioner's functions, to other persons;

(b) for the purposes of any criminal, civil or disciplinary proceedings; or

(c) in the form of a summary or other general statement made by the commissioner which does not identify the person from whom the information was received or any person to whom it relates.

(2) Any person who discloses information in contravention of this paragraph is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

Regulations

13. (1) The Department may make regulations as to the procedure to be followed under this Schedule.

(1A) Without prejudice to the generality of sub-paragraph (1), regulations under that sub-paragraph may prescribe —

(a) the time within which any conduct matter is to be referred to the commissioner or any case is to be notified to the commissioner under paragraph 4C;

(b) the information and evidence to be supplied to the commissioner on any such reference or notification; and

(c) the steps to be taken to obtain and preserve evidence relating to the subject matter of the complaint, conduct matter or notification.

(2) The Department shall provide by regulations —

(a) subject to such exceptions as may be specified by the regulations, for the furnishing of a copy of a complaint to the member of the police force against whom it is made;

(aa) subject to such exceptions as may be so specified, for the furnishing of particulars of any conduct matter referred to the commissioner under paragraph 4A to the person to whose conduct the matter relates;

(b) for giving a member of the police force against whom a complaint is made an opportunity to comment orally or in writing on the complaint;

(ba) for giving the person to whose conduct a conduct matter relates an opportunity to comment orally or in writing on the matter;

(c) for cases in which any provision of this Schedule is not to apply where a complaint, other than a complaint which falls to be resolved informally, is withdrawn or the complainant indicates that he does not wish any further steps to be taken;

(d) for the notification of the outcome of any complaint to the complainant and to the member of the police force against whom it is made;

(da) for the notification of the outcome of the reference of any conduct matter under paragraph 4A to the person to whose conduct the matter relates;

(db) for the notification of the result of investigations to the Department in cases specified in the regulations;

(e) for enabling the commissioner to dispense with any requirement of this Schedule specified in the regulations;

(f) for the commissioner to be supplied with information or documents for the purpose of performing his functions;

(g) for the delegation by the Chief Constable of such of his functions under this Schedule as are specified in the regulations;

~~(h) in such cases as may be so specified, for the investigation of a complaint by a member of a police force in the United Kingdom appointed for the purpose in accordance with arrangements made with the police authority by which the force is maintained, and for the modification of the foregoing provisions of this Schedule in relation to such a complaint.~~

(3) The Department shall provide by regulations for the investigation, in such cases as may be specified in the regulations, of a complaint or a conduct matter by —

(a) a member of a police force in a relevant territory, appointed for the purpose in accordance with arrangements made with the authority by which the force is maintained; or

(b) a member of a body, or a person, having functions in a relevant territory corresponding to any functions of the commissioner, or an officer of such a body or person, appointed for the purpose in accordance with arrangements made with that body or person; and

(c) for the modification of the foregoing provisions of this Schedule in relation to such an investigation.

(4) In paragraph (3) "relevant territory" means any part of the United Kingdom, any of the Channel Islands or the Republic of Ireland.

APPENDIX D

Consultation Criteria

The Six Consultation Criteria

1. Consult widely throughout the process, allowing a minimum of 6 weeks for a minimum of one written consultation at least once during the development of the legislation or policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your Department's effectiveness at consultation.
6. Ensure your consultation follows best practice, including carrying out an Impact Assessment if appropriate.

APPENDIX E

POLICE (AMENDMENT) BILL 2015

LIST OF PERSONS OR BODIES CONSULTED REGARDING THIS BILL

- Members of Tynwald
- The Attorney General
- Clerk of Tynwald
- Chief Officers of Government Departments, Offices and Statutory Boards
- Social Affairs Policy Review Committee of Tynwald
- Local Authorities
- Chamber of Commerce
- Isle of Man Employers Federation
- Isle of Man Law Society
- Isle of Man Constabulary
- Isle of Man Police Federation
- the Police Advisory Group
- the Police Consultative Forum
- Victim Support
- Isle of Man Trades Council
- Positive Action Group
- Mec Vannin
- Liberal Vannin



**Isle of Man
Government**

Reiltys Ellan Vannin



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