

AN AGREEMENT

under section 26 of the Police Reform Act 2002

BETWEEN

THE SECRETARY OF STATE FOR DEFENCE

and

THE DIRECTOR GENERAL OF THE INDEPENDENT OFFICE FOR
POLICE CONDUCT

WHEREAS:

- 1) The Director General of the Independent Office for Police Conduct (“the Director General”) appointed under the Police Reform Act 2002 (“the 2002 Act”) has a statutory function to secure suitable, efficient and effective arrangements for the handling of complaints, conduct matters and deaths or serious injury (“DSI”) involving persons serving with the police, with an appropriate degree of independence, and in which the public have confidence in relation to police forces in England and Wales.
- 2) By virtue of section 1 of the Ministry of Defence Police Act 1987 the Secretary of State for Defence maintains a body of constables known as the Ministry of Defence Police (“the MDP”). The MDP has jurisdiction throughout the United Kingdom (England, Wales, Scotland and Northern Ireland) and the adjacent territorial waters.
- 3) The chief constable of the Ministry of Defence Police has under his direction and control MOD civil servants (“civilian staff”) who support the force.
- 4) Article 3 of the Independent Police Complaints Commission (Forces Maintained Otherwise than by Local Policing Bodies) Order 2013 requires the establishment and maintenance of procedures similar to the procedures provided for by or under Part 2 of the 2002 Act in relation to MDP officers and the civilian staff who support the force and are under the direction and control of the chief constable of the MDP.
- 5) The Secretary of State for Defence and the Director General each has the power to enter into an agreement under s.26(1) of the 2002 Act to establish and maintain such procedures.
- 6) With the approval of the Secretary of State for the Home Department in accordance with section 26(4) of that Act the Director General and the Secretary of State for Defence agree as follows:

Commencement, application, termination and transitional arrangements

1. This agreement comes into effect on the day after the date it is signed by the parties.
2. Subject to paragraph 3, the arrangements set out in this agreement shall apply to all complaints, conduct matters and death or serious injury matters coming to the attention of the appropriate authority on or after the day on which this agreement comes into effect.
3. Nothing in this agreement shall apply—
 - (a) to the conduct of a person serving with the police; or
 - (b) in relation to a death or serious injury, which occurs outside England and Wales and the adjacent territorial waters.
4. Subject to paragraph 5, the previous agreements between the Secretary of State for Defence and the Independent Police Complaints Commission made in pursuance of section 26 of the 2002 Act are terminated.
5. Complaints, conduct and death or serious injury matters which came to the attention of the appropriate authority before the date of this agreement and which, on the date of this agreement:
 - (a) are the subject of an ongoing procedure under Part 2 and Schedule 3 of the 2002 Act (as applied by any previous agreement between the Secretary of State for Defence and the Commission),or
 - (b) the subject of ongoing disciplinary proceedings resulting from an investigation under Part 2 and Schedule 3, (as applied by any previous agreement between the Secretary of State for Defence and the Commission)will be handled in accordance with this agreement
6. For the purposes of any procedures under Part 2 and Schedule 3 (as applied by any previous agreement between the Secretary of State for Defence and the Commission) and/or any disciplinary proceedings in relation to a matter which came to the appropriate authority's attention before the date of this agreement but which is to be handled under this agreement in accordance with paragraph [5], the Standards of Professional Behaviour to be applied are those which applied at the date when the conduct which is the subject of the procedure or disciplinary proceedings (as the case may be) occurred.

Interpretation

7. In this Agreement—

“the 2002 Act” means the Police Reform Act 2002 as amended by the Serious Crime and Police Act 2005, the Police and Justice Act 2006, the Criminal Justice and Immigration Act 2008, the Police Reform and Social Responsibility Act 2011, the Police (Complaints and Conduct) Act 2012, the Crime and Courts Act 2013; the Anti-Social Behaviour, Crime and Policing Act 2014 and Part 2, Chapter 5 of the Policing and Crime Act 2017

“the Complaints and Misconduct Regulations” means the Police (Complaint and Misconduct) Regulations 2012 as amended by the Police (Complaints and Misconduct) (Amendment) Regulations 2014, the Police (Complaints and Misconduct) (Amendment) Regulations 2017, The Independent Office for Police Conduct (Transitional and Consequential Regulations 2017 and modified by the Police (Complaints and Misconduct) (Old Cases) Regulations 2013.

“appropriate authority” means—

- (a) in relation to a senior officer, the Secretary of State for Defence; and
- (b) in relation to all other persons serving with the MDP, the chief constable;

“chief constable” means the chief constable of the MDP;

‘complaint’ has the meaning given to it in section 12(1) of the 2002 Act save that the reference to “a person serving with the police” shall be construed as a reference to “a person serving with the MDP”;

'conduct matter' has the meaning given to it in section 12(2) of the 2002 Act save that the reference to "a person serving with the police" shall be construed as a reference to "a person serving with the MDP";

"death or serious injury matter" has the meaning given to it in section 12(2A) of the 2002 Act save that the reference to "a person serving with the police" shall be construed as a reference to "a person serving with the MDP";

"a person serving with the MDP" means—

- (a) a police officer; or
- (b) any person other than a police officer employed by the Secretary of State for Defence who is under the direction and control of the chief constable of the MDP;

"police officer" means a member of the MDP;

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

"MDP" means the Ministry of Defence Police.

"Director General" means the Director General of the Independent Office for Police Conduct

"the Commission" means the Independent Police Complaints Commission

Application of Part 2 of the Police Reform Act 2002

- 8. The Director General will exercise the functions, duties and rights imposed on or granted to him or her under the 2002 Act in relation to the MDP and persons serving with the MDP as if the MDP were a force to which the 2002 Act applies.
- 9. Any duties or obligations imposed by Part 2 of the 2002 Act on a local policing body shall be treated as if they were imposed on the Secretary of State for Defence.
- 10. Any duties or obligations imposed by Part 2 of the 2002 Act on a chief officer shall be treated as if they were imposed on the chief constable.
- 11. Any duties or obligations imposed on the appropriate authority by Part 2 of the 2002 Act shall be treated as if they were imposed on—
 - (a) the Secretary of State for Defence in relation to a senior officer; and
 - (b) the chief constable in relation to all other officers.
- 12. Any guidance issued under section 22 of the 2002 Act shall be treated as having been issued to—
 - (a) the Secretary of State for Defence where such guidance is issued to local policing bodies; or
 - (b) the chief constable where such guidance is issued to chief officers.

Application of the Complaints and Misconduct Regulations 2012

- 13. The Complaints and Misconduct Regulations made under Part 2 of the 2002 Act shall be treated as if they apply to persons serving with the MDP.
- 14. For the purposes of paragraph 13, the Complaints and Misconduct Regulations shall be construed as if—

"appropriate authority"—

 - (a) in relation to a person serving with the MDP or in relation to any complaint, conduct matter or investigation relating to the conduct of such a person means—
 - (i) in the case of a senior officer, the Secretary of State for Defence; and
 - (ii) in the case of all other persons serving with the MDP, the chief constable;
 - (b) in relation to a death or serious injury (DSI) matter means—
 - (i) where the relevant person is a senior officer, the Secretary of State for Defence; and
 - (ii) where the relevant person is a person serving with the MDP who is not a senior officer, the chief constable;

"the Conduct Regulations"—

- (a) in relation to a police officer means, the Ministry of Defence Police (Conduct etc) Regulations 2015 as amended from time to time;
- (b) in relation to a person serving with the MDP other than a police officer means, the Ministry of Defence Misconduct Policy;

“chief officer” means the chief constable;

"disciplinary proceedings"—

- (a) in relation to a police officer means—
 - (i) disciplinary proceedings within the meaning of the Conduct Regulations; and
 - (ii) unsatisfactory performance procedures within the meaning of the Performance Regulations;
- (b) in relation to a person serving with the MDP other than a police officer means—
 - (i) misconduct proceedings; and
 - (ii) the Ministry of Defence Managing Poor Performance procedures and the Ministry of Defence Managing Loss of Capability or Qualification process;

“performance regulations” means the Ministry of Defence (Performance) Regulations 2012 as amended from time to time;

“police friend”—

- (a) in relation to a police officer, means a person chosen by the person concerned in accordance with the Conduct Regulations;
- (b) in relation to a person serving with the MDP other than a police officer means—
 - (i) a work colleague;
 - (ii) a trade union representative; or
 - (iii) an official employed by a trade union or trade union representative who has been accredited by their trade union as being competent to accompany an employee;

“police officer” means a member of the MDP;

“misconduct proceedings”—

- (a) in relation to a police officer means a misconduct meeting or misconduct hearing;
- (b) in relation to a person serving with the MDP other than a police officer means the MOD misconduct procedures and any other management process during which the conduct (as opposed to the performance) of such a person is considered in order to determine whether a sanction or punitive measure is to be imposed in relation to that conduct;

"Standards of Professional Behaviour"—

- (a) in relation to a police officer means the Standards of Professional Behaviour set out in Schedule 1 of the Conduct Regulations;
- (b) in relation to a person serving with the MDP other than a police officer means the Ministry of Defence Standards of Conduct and Behaviour.

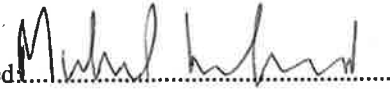
Compliance with this Agreement by the Chief Constable

- 15. The Secretary of State for Defence will ensure that the chief constable complies with the provisions of this Agreement.

Signed by: 

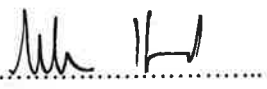
Date: 23 Feb 2018

On behalf of the Secretary of State for Defence

Signed: 

Date: 5 March 2018

By/on behalf of (delete as appropriate) the Director General of the Independent Office for Police Conduct

Approved by: 

Date: 5/2/2018

On behalf of the Secretary of State for the Home Department

