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1. Introduction

This document contains extracts from legislation and regulations, I compiled in the context of my desk research for filing my Litigant in Person [19.04.11](#) Claim in the [London High Court, Queen's Bench Division](#), against the Commissioner of the Metropolitan Police Service, the 'Independent' Police Complaints Commission and the Home Secretary. (Reasons are detailed on the [police page](#), and a snapshot of surveillance events contained in [My Diary 23 May 10](#)). To be clear: **I AM NOT A LAWYER.**

2. Legislation

2.1 [Crime and Disorder Act 1998](#)

S.32 - 'Racially or religiously aggravated harassment' (1) *"A person is guilty of an offence under this section if he commits- (a) an offence under [s.2 of the Protection from Harassment Act 1997](#) (offence of harassment)... which is [racially or religiously aggravated] for the purposes of this section"* (as amended by the Anti-terrorism, Crime and Security Act 2001, s 39(1), (5)(b), (6)(d))

(3) *"A person guilty of an offence falling within subsection (1)(a) above shall be liable- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both"*

(5) *"If, on the trial on indictment of a person charged with an offence falling within subsection (1)(a) above, the jury find him not guilty of the offence charged, they may find him guilty of the basic offence mentioned in that provision".*

2.2 [Criminal Law Act 1967](#)

S.5(2) – *"Penalties for...giving false information: Where a person causes any wasteful employment of the police by knowingly making to any person a false report tending to show that an offence has been committed, or to give rise to apprehension for the safety of any persons or property, or tending to show that he has information material to any police inquiry, he shall be liable on summary conviction to imprisonment for not more than six months or to a fine of not more [level 4 on the standard scale] or to both" (Reference to level on the standard scale substituted by virtue of the Criminal Justice Act 1982, ss 38, 46)*

2.3 [Criminal Procedure and Investigations Act 1996](#)

S.1(4) - defines a criminal investigation as *"investigation which police officers have a duty to conduct with a view to being ascertained (a) whether a person should be charged with an offence, or (b) whether a person charged with an offence is guilty of it"*.

Further, the Code of Practice supplementing the Act, Part II, under para.3.5 states: *"In conducting an investigation, the investigator should pursue all reasonable lines of inquiry, whether these point towards or away from the suspect..."*

2.4 [Data Protection Act 1998](#)

Part I - Preliminary

S.1 – Basic interpretative provisions: (1) *“Personal data is data that relates to an individual”. It includes “any expression of opinion about the individual” and “any indication of the intentions of the data controller or any other person in respect of that individual”.*

S.2 – Sensitive personal data: *“Sensitive personal information” includes: (a) “racial or ethnic origin”; (e) “mental health or condition”; (g) “the commission or alleged commission of any offence”.*

S.4 – The data protection principles: (4) (Subject to **s.27(1)**) *“a data controller has a duty to comply with the data protection principles”* (‘DPPs’).

Part II – Rights of data subjects and others

S.7 – Right of access to personal data: Provides an individual with a right of access to *“personal data”*, entitling him to know: whether a data controller is processing any of his personal data (**s.7(1)(a)**) and, if so: to be told what it is (**s.7(1)(b)(i) and (c)(i)**); its source (**s.7(1)(c)(ii)**); why it is being processed (**s.7(1)(b)(ii)**); if by automatic means, for the purpose of evaluating matters relating to him, to be informed of the logic involved in that decision-making (**s.7(1)(d)**); to whom the data are or may be disclosed (**s.7(1)(a)(iii)**). These entail, if required, redaction to protect another individual either as a subject or the source of the information (**s.7(4) and (5)**).

If satisfied that a data controller has failed to comply with a request, a court may order him to do so (**s.7(9)**). In this context, the court is entitled to inspect any relevant data or information as to the logic involved in any decision making in order to determine the case (**s.15(2)**).

S.10 – Right to prevent processing likely to cause damage or distress: Provides an individual with an absolute right to submit a notice to a data controller *“to cease processing any personal data on the grounds that for specified reasons (s.10(1)) it is causing or is likely to cause substantial damage or substantial distress to him (s.10(1)(a)) and that damage or distress is or would be unwarranted” (s.10(1)(b))*. This *“applies where the data controller has failed to meet any of the conditions in paras. 1-4 of Sch.2” (s.10(2)(a))*. Within 21 days of receiving the notice, the data controller must (**s.10(3)**) state whether he has complied or intends to comply (**s.10(3)(a)**), or state his reasons for not complying with the request or parts of it (**s.10(3)(b)**). If the notice appears justified, the court may order him to comply (**s.10(4)**).

S.13 – Compensation for failure to comply with certain requirements: (1) *“An individual who suffers damage by reason of any contravention by a data controller of any of the requirements of the Act is entitled to compensation from the data controller for that damage”*. Where damage has been suffered, the individual may also claim for any associated distress (**s.13(2)**). A data controller can defend against proceedings by *“proving that he took such care as in all the circumstances was reasonably required to comply with the requirement concerned” (s.13(3))*

S.14 – Rectification, blocking, erasure and destruction: (1) *“If a court is satisfied that the personal data are inaccurate, it may order the data controller to rectify, block, erase or destroy those data and any other personal data which contain an expression of opinion which appears to the court to be based on the inaccurate data”*. It applies: *“whether or not the data accurately record information received or obtained by the data controller from a third party” (s.14(2))*;

applies where the data controller has failed to take reasonable steps to ensure the accuracy of the data (**para.7 of Part II of Sch.1**).

If all or any of the requirements have not been complied with, the court may make such order as it thinks fit for securing compliance with those requirements (**s.14(2)(b)**). The court “*may also order the data controller to notify third parties of the rectification, blocking, erasure or destruction of the data*” (**s.14(3)**).

“If a court is satisfied that the individual has suffered damage by reason of any contravention by a data controller of any of the requirements of the Act in respect of any personal data, in circumstances entitling him to compensation under s.13, and there is a substantial risk of further contravention, the court may order the rectification, blocking, erasure or destruction of any of those data” (**s.14(4)**).

The court can ask to see an unredacted version of the report to determine and assess the logic involved in the decision to block the data (**s.15(2)**)

The court may as well order enquiries to be made and data to be traced where it has been shown that the inaccurate data have been disclosed to third parties. When it makes an order, the court may consider ordering the data controller to notify third parties to whom the data has been disclosed of the rectification, blocking, erasure or destruction (**s.14(5)**).

S.27 – Preliminary: (1) “*References in any of the data protection principles or any provision of Parts II and III to personal data or to the processing of personal data do not include references to data or processing which by virtue of this Part are exempt from that principle or other provision...*” (followed by more text)

Part IV – Exemptions

S.28 - National security: (1) “*Personal data are exempt from any of the provisions of- (a) the data protection principles, (b) Parts II, III and V... - if the exemption from that provision is required for the purpose of safeguarding national security. Exemption requires a certificate signed by a Minister of the Crown* (**s.28(2)**); the certificate may identify the personal data to which it applies (**s.28(3)**).

S.29 – Crime and taxation: (1) “*Personal data processed for any of the following purposes” - (a) “the prevention or detection of crime”, (b) “the apprehension or prosecution of offenders”... “are exempt from the first data protection principle (except to the extent to which it requires compliance with the conditions in **Schedules 2 and 3**) and **section 7** in any case to the extent to which the application of those provisions to the data would be likely to prejudice any of the matters mentioned in this subsection.*”

S.35 - Disclosures required by law or made in connection with legal proceedings etc: (1) “*Personal data are exempt from the non-disclosure provisions where the disclosure is required by or under any enactment, by any rule of law or by the order of a court*” (2) “*Personal data are exempt from the non-disclosure provisions where the disclosure is necessary- (a) for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings), or (b) for the purpose of obtaining legal advice, or is otherwise necessary for the purposes of establishing, exercising or defending legal rights*”.

Part VI – Miscellaneous and general

S.70 – Index of defined expressions: (2) *“Data are inaccurate if they are incorrect or misleading as to any matter of fact”.*

SCHEDULE 1 – The Data Protection Principles: Parts I – The Principles and Part II – Interpretation of the Principles in Part I

DPP1: *“Personal data must be processed fairly and lawfully”,* meeting at least 1 of **Sch.2** conditions, and for sensitive personal data concurrently meeting at least 1 of the conditions in **Sch.3**.

Para.1(1) of Part II stresses the need *“to have regard as to the method by which the data was obtained”.*

DPP2: *“Personal data can only be processed for 1 or more specified and lawful purposes”.*

Para.6 of Part II: *“in determining whether any disclosure of personal data is compatible with the purpose for which it was obtained, regard is to be had to how it is going to be processed by any person to whom it is disclosed”.*

DPP3: The *“data must be adequate in relation to the purpose for which it is processed”.*

DPP4: *“Personal data must be accurate”.*

Para.7 of Part II: *“having regard to the purpose or purposes for which the data were obtained and further processed, the data controller must take reasonable steps to ensure the accuracy of the data”.*

DPP6: *“Personal data must be processed in accordance with the rights of the data subject”.*

Para.8(a) of Part II: *“a data controller contravenes s.7 by failing to supply information in accordance with that section, and s.10 by failing to comply with a notice”.*

SCHEDULE 2 – Conditions for processing “personal data” under DPP1

Para.1: *“The data subject has given his consent”.*

Para.3: *“Processing is necessary for compliance with any legal obligation”.*

Para.4: *“Processing is required to protect the vital interests of a data subject”.*

Para.5: *“Processing is necessary”* (a) *“for the administration of justice”;* (b) *“the exercise of functions conferred by enactment”;* (c) *“by a government department”;* (d) *“in the public interest”.*

Para.6: *“Processing is necessary”* in the *“pursuance of legitimate interests by the data controller or by any third party/ies – except where it is unwarranted by reason of prejudice to the rights and freedoms or legitimate interests of the data subject”.*

SCHEDULE 3 – Conditions for processing “sensitive personal data” under DPP1

Para.1: *“The data subject has given his explicit consent”.*

Para.3: *“Processing is necessary” (a) “to protect the vital interests of the data subject or another person”, “in a case where consent cannot be given by or on behalf of the data subject, or the data controller cannot reasonably be expected to obtain consent”; (b) “to protect the vital interest of another person”.*

Para.5: *The “data has been made public by the data subject”.*

Para.6: *“The processing is necessary for the purpose of” (a) “or in connection with, any legal proceedings (including prospective legal proceedings); (b) “obtaining legal advice”; (c) “establishing, exercising or defending legal rights”.*

Para.7: *“The processing is necessary” for (a) “the administration of justice”; (b) “exercise of functions conferred by enactment”; (c) “by a government department”.*

2.5 Data Protection Directive 95/46/EC of the European Parliament

The foundation of the DPA, its **Recital 28** states that *“...any processing of personal data must be lawful and fair to the individuals concerned”.*

Directive 14 states that a data subject must be granted the right to *“object at any time on compelling legitimate grounds relating to his particular situation to the processing of personal data relating to him... Where there is justified objection, the processing instigated by the controller may no longer involve those data”.*

Under **Article 22**, that member states must provide for *“the right of every person to a judicial remedy for any breach of the rights guaranteed him by the national law applicable to the processing in question, subject only to limited grounds of exemption”.*

2.6 [European Convention for the Protection of Human Rights and Fundamental Freedoms 1950](#) (as set out in Sch.1 of the [Human Rights Act 1998](#))

S.1(1) – *“In this Act “the Convention rights” means the rights and fundamental freedoms set out in- (a) Articles 2 to 12 and 14 of the Convention...”*

S.2(1) – *“A court or tribunal determining a question which has arisen in connection with a Convention right must take into account any- (a) judgment, decision, declaration or advisory opinion of the European Court of Human Rights, (b) opinion of the Commission under Article 31, (c) decision of the Commission in connection with Article 26 or 27(2)...”*

S.6 – *“It is unlawful for a public authority to act in a way which is incompatible with a Convention right”.* **s.6(1)**. Subsection (1) does not apply to an act if- it entailed acting as per primary legislation: **s.6(2)**; *““An Act” includes a failure to act”.* **s.6(6)**

S.7(1) - *“A person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by section 6(1) may- (a) bring proceedings against the authority under this Act in the appropriate court or tribunal, or (b) rely on the Convention right or rights concerned in any legal proceedings - but only if he is (or would be) a victim of the unlawful act”.*

S.8 - *“In relation to any act (or proposed act) of a public authority which the court finds is (or would be) unlawful, it may grant such relief or remedy, or make such order, within its powers as it considers just and appropriate”.* **s.8(1)** *“In determining- (a) whether to award damages, or (b) the amount of an award, the court must take into account the principles applied by the European Court of Human Rights...”.* **s.8(4)**.

Schedule 1 – The Articles

Article 2 – Right to life: (1) *“Everyone’s right to life shall be protected by law.”...*

Article 3 – Prohibition of torture: *“No one shall be subjected to... degrading treatment or punishment.”*

Article 6 – Right to a fair trial: (1) *“In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing...”* (2) *“Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.”*

Article 8 – Right to respect for private life: (1) *“Everyone has the right to respect for his private and family life, his home and his correspondence.”* (2) *“There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”*

Article 10 – Freedom of expression: (1) *“Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers...”* (2) *“The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary”.*

Article 14 – Prohibition of discrimination: *“The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”*

NOT comprised under the Human Rights Act 1998:

Article 1 – Obligation to respect human rights: *“The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention”*

Article 13 – Right to an effective remedy: *“Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity”.*

2.7 Malicious Communications Act 1988

S.1 (*) – Offence of sending letters etc with intent to cause distress or anxiety: (1) “Any person who sends to another person- (a) a [letter, electronic communication or article of any description] which conveys- (i) a message which is indecent or grossly offensive; (ii) a threat; or (iii) information which is false and known or believed to be false by the sender; or (b) any [article or electronic communication] which is, in whole or part, of an indecent or grossly offensive nature, is guilty of an offence if his purpose, or one of his purposes, in sending it is that it should, so far as falling within paragraph (a) or (b) above, cause distress or anxiety to the recipient or to any other person to whom he intends that it or its contents or nature should be communicated”.

[(2A) “In this section 'electronic communication' includes- (a) any oral or other communication by means of [an electronic communications network]; and (b) any communication (however sent) that is in electronic form”.

(3) “In this section references to sending include references to delivering [or transmitting] and to causing to be sent[, delivered or transmitted] and "sender" shall be construed accordingly”

(4) “A person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both”

(*) As amended by the [Criminal Justice and Police Act 2001, s.43](#)

2.8 Protection from Harassment Act 1997

S.1 – Prohibition of harassment: (1) “A person must not pursue a course of conduct- (a) which amounts to harassment of another, and (b) which he or she knows or ought to know amounts to harassment of the other”

(2) “For the purposes of this section, the person whose course of conduct is in question ought to know that it amounts to [or involves] harassment of another if a reasonable person in possession of the same information would think the course of conduct amounted to [or involved] harassment of the other”

(As inserted by the Serious Organised Crime and Police Act 2005, s 125(1), (2)(b))

S.2 – Offence of harassment: (1) “A person who pursues a course of conduct in breach of [section 1(1)...] is guilty of an offence”; (2) “A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both”.

(As substituted by the Serious Organised Crime and Police Act 2005, s 125(1), (3))

S.3 – Civil remedy: (1) “An actual or apprehended breach of [section 1(1)] may be the subject of a claim in civil proceedings by the person who is or may be the victim of the course of conduct in question”. (2) “On such a claim, damages may be awarded for (among other things) any anxiety caused by the harassment and any financial loss resulting from the harassment”.

S.4 – Putting people in fear of violence: (1) “A person whose course of conduct causes another to fear, on at least two occasions, that violence will be used against him is guilty of an

offence if he knows or ought to know that his course of conduct will cause the other so to fear on each of those occasions”; (2) “For the purposes of this section, the person whose course of conduct is in question ought to know that it will cause another to fear that violence will be used against him on any occasion if a reasonable person in possession of the same information would think the course of conduct would cause the other so to fear on that occasion”.

(4) “A person guilty of an offence under this section is liable-- (a) on conviction on indictment, to imprisonment for a term not exceeding five years, or a fine, or both, or (b) on summary conviction, to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both”

S.7 – Interpretation of this group of section: (1) “This section applies for the interpretation of [sections 1 to 5A]” (2) “Harassing a person includes alarming the person or causing the person distress.” (3) “A “course of conduct” must involve- (a) in the case of conduct in relation to a single person (see section 1(1)), conduct on at least two occasions in relation to that person”.

(3A) “A person's conduct on any occasion shall be taken, if aided, abetted, counselled or procured by another- (a) to be conduct on that occasion of the other (as well as conduct of the person whose conduct it is); and (b) to be conduct in relation to which the other's knowledge and purpose, and what he ought to have known, are the same as they were in relation to what was contemplated or reasonably foreseeable at the time of the aiding, abetting, counselling or procuring” (as inserted by the [Criminal Justice and Police Act 2001, s.44\(1\)\(2\)](#))

(2) “This section has effect in relation to any aiding, abetting, counselling or procuring that takes place after the coming into force of this section”. (As inserted by the [Criminal Justice and Police Act 2001, s.44\(1\)\(2\)](#))

(4) ““Conduct” includes speech”

2.9 [Police Act 1997](#)

Part III – Authorisation of action in respect of property

S.92 – Effect of authorisation under Part III: states that to carry out surveillance of private premises by means of wireless telegraphy the police requires an authorisation.

S.93 – Authorisation to interfere with property etc: (2) states that the power to issue such authorisation rests with the Metropolitan Police Service Commissioner. Further, that in issuing such authorisation the MPS Commissioner must “believe that the action is necessary because it will be of substantial value in the prevention or detection of ‘serious crime’, and that the action is proportionate to what is sought to be achieved”.

(4) Defines “serious crime” as per [s.81\(3\)](#) of RIPA (below).

2.10 Police Conduct Regulations

1. [Police \(Conduct\) Regulations 1999 - Reg.4 – Code of conduct](#) (SI 1999/730)

Came into force on 1 Apr 99; repealed by the below 2004 Conduct Regulations.

Schedule 1 – Code Of Conduct – Reg.4 - See extracts on [the police page](#), under ‘D- Police legislation and Regulations’

2. Police (Complaints and Misconduct) Regulations 2004 (SI 2004/643)

Reg.2 – Reference of complaints to the Commission: (1) *“For the purposes of paragraph 4(1)(b) of Schedule 3 to the 2002 Act (reference to the Commission of any complaint of a specified description), the complaints set out in paragraph (2) are hereby specified”. (2) “Those complaints are- (a) any complaints not falling within paragraph 4(1)(a) of that Schedule but alleging conduct which constitutes- ... (iii) serious corruption, as defined in guidance issued by the Commission; (iv) a criminal offence or behaviour which is liable to lead to a disciplinary sanction and which in either case was aggravated by discriminatory behaviour on the grounds of a person's race, sex, religion, or other status identified in guidance by the Commission...”*

Reg.3 – Dispensation by the Commission: (1) *“For the purposes of paragraph 7 of Schedule 3 to the 2002 Act (dispensation by the Commission from requirements of Schedule 3) the complaints set out in paragraph (2) are hereby specified- (2) Those complaints are complaints where the appropriate authority considers that-*

(a) more than 12 months have elapsed between the incident, or the latest incident, giving rise to the complaint and the making of the complaint and either that no good reason for the delay has been shown or that injustice would be likely to be caused by the delay,...

(d) “the complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints”,...

(f) “it is not reasonably practicable to complete the investigation of the complaint or any other procedures under Schedule 3 to the 2002 Act”...

(4) “For the purposes of paragraph (2)(f) it is not reasonably practicable to complete the investigation of a complaint or any other procedures under Schedule 3 to the 2002 Act if, and only if-... (b) it is not reasonably practicable to complete a satisfactory investigation in consequence of-... (ii) the lapse of time since the event or events forming the subject-matter of the complaint”.

(5) “In this regulation any reference to action not being reasonably practicable shall include a reference to action which it does not appear reasonably practicable to take within a period which is reasonable in all the circumstances of the case”.

(6) “An application under paragraph 7(1) of Schedule 3 to the 2002 Act for permission to handle a complaint in whatever manner (if any) an authority thinks fit shall be in writing and shall be accompanied by- (a) a copy of the complaint; (b) an explanation of the appropriate authority's reasons for making the application;... (d) copies of any other documents or material in the possession of the appropriate authority which are relevant to the complaint”.

(7) “The appropriate authority shall supply any further information requested by the Commission for the purpose of considering an application by that authority made under paragraph 7 of Schedule 3 to the 2002 Act”.

3. [Police \(Conduct\) Regulations 2004](#) (SI 2004/645)

Came into force on 1 Apr 04; repealed the above 1999 Regulations. They were in turn repealed by the below 2008 Regulations.

[Schedule 1 – Code of Conduct – Reg.3](#) - See extracts on [the police page](#), under 'D- Police legislation and Regulations'

4. [Police \(Conduct\) Regulations 2008](#) (SI 2008/2864)

Part 3 – [Reg.12](#) – [Assessment of conduct](#):...

Part 4 – [Reg.19](#) – [Referral of case to misconduct proceedings](#):...

[Schedule – Standards of Professional Behaviours](#) - See extracts on [the police page](#), under 'D- Police legislation and Regulations'.

2.11 [Police Reform Act 2002](#)

[S.10](#) – [General functions of the Commission](#): The IPCC has a statutory duty to ensure “*The creation and maintenance of public confidence in the police complaints system*” (**[s.10\(1\)\(d\)](#)**), “*ensuring that all complaints concerning the police are conducted efficiently and effectively, and that the process manifests an appropriate degree of independence*” (**[s.10\(1\)\(c\)](#)**); “*the recording of matters from which it appears that there may have been conduct by such persons which constitutes or involves the commission of a criminal offence or behaviour justifying disciplinary proceedings*” (**[s.10\(2\)\(b\)](#)**)

“*It shall be the duty of the Commission-...to secure that arrangements exist which are conducive to, and facilitate, the reporting of misconduct by persons in relation to whose conduct the Commission has functions*” (**[s.10\(4\)\(b\)](#)**).

[S.12](#) - [Definition of a “complaint”](#): (1) “...*any complaint about the conduct of a person serving with the police which is made (whether in writing or otherwise) by- (a) a member of the public who claims to be the person in relation to whom the conduct took place*” (2) “*In this part “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 person serving with the police may have-... (b) behaved in a manner which would justify the bringing of disciplinary proceedings*”...

(4) The complainant was “*adversely affected*” by the conduct of the officers concerned.

[S.22](#) – [Power of the Commission to issue guidance](#): (7) “*It shall be the duty of every person to whom any guidance under this section is issued to have regard to that guidance in exercising or performing the powers and duties to which the guidance relates*”. (8) “*A failure by a person to whom guidance under this section is issued to have regard to the guidance shall be admissible in evidence in any disciplinary proceedings or on any appeal from a decision taken in any such proceedings*”.

[S.38](#) - [Police powers for police authority employees](#) (community support officers, investigating officers)...(4) “*A chief officer of police . . . shall not designate a person under this*

section unless he is satisfied that that person- (a) is a suitable person to carry out the functions for the purposes of which he is designated; (b) is capable of effectively carrying out those functions”...

[(5B) “The reference in subsection (4)(c) to the powers and duties to be conferred or imposed on a person by virtue of his designation, so far as it is a reference to the standard powers and duties of a community support officer, is a reference to the powers and duties that at the time of the person's designation are the standard powers and duties of a community support officer]”

Re. community support officers, see Sch.4, below.

Schedule 3 – Handling of complaints and conduct matters etc

Part 1 – Handling of complaints - 5 – Duties of the Commission - Para.5(1): *“It shall be the duty of the Commission in the case of every complaint referred to it by a police authority or chief officer, to determine whether or not it is necessary for the complaint to be investigated”*

Part 3 – Investigations and subsequent proceedings - [29 - Minor definitions]: *“In this Part of this Schedule- "gross misconduct" means a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal; "misconduct" means a breach of the Standards of Professional Behaviour”*

(As inserted by the [Criminal Justice and Immigration Act 2008](#), s 127, Sch 23, paras 1)

(NB: There are many sections under the above parts)

Schedule 4 – Powers exercisable by police civilians (re. s.38)

Part 1 – Community support officers:

1. Powers to issue fixed penalty notices

1A - [Power to require name and address]

2. Power to detain etc

2A - [Powers to search individuals and to seize and retain items]

3. Power to require name and address of person acting in an anti-social manner

3A - [Power to require name and address: road traffic offences]

4. Power to use reasonable force to detain person

4A - [Power to disperse groups and remove young persons to their place of residence]

4C - [Power to remove truants [and excluded pupils] to designated premises etc]

5. Alcohol consumption in designated public places

5A - [Power to serve closure notice for licensed premises persistently selling to children]

6. Confiscation of alcohol

7 - Confiscation of tobacco etc

7B - Powers to seize and detain: controlled drugs

7D - [Park Trading offences

8 - Entry to save life or limb or prevent serious damage to property

8A - [Entry to investigate licensing offences]

9 - Seizure of vehicles used to cause alarm etc

10 - Abandoned vehicles

11 - Power to stop vehicle for testing

12 - Power to control traffic for purposes of escorting a load of exceptional dimensions

13 - Carrying out of road checks

13A - [Power to place traffic signs]

14 - Cordoned areas

15 - Power to stop and search vehicles etc in authorised areas

15ZA - [Photographing of persons arrested, detained or given fixed penalty notices

Part 2 - [Investigating officers](#) (likewise, list powers)

2.12 Race Relations Act 1976

(NB: I may be wrong, but I believe that this Act was replaced by the [Equality Act 2010](#)).

S.3A – ‘Harassment’: (1) *“A person subjects another to harassment...where, on grounds of race or ethnic or national origins, he engages in unwanted conduct which has the purpose or effect of— (a) violating that other person’s dignity, or (b) creating an intimidating, hostile, degrading, humiliating or offensive environment for him”*. It appears that, at a minimum, a breach of the Act entails a fine.

2.13 [Regulation of Investigatory Powers Act 2000 \(RIPA\)](#)

Part I – Communications – Chapter I - Interception

S.1 – Unlawful interception: (1) *“It shall be an offence for a person intentionally and without lawful authority to intercept, at any place in the United Kingdom, any communication in the course of its transmission by means of- (a) a public postal service; or (b) a public telecommunication system.*

(5) *“Interception of an individual’s post or electronic communications is unlawful, unless: (i) it is authorised by or under s.3 of the Act, or (ii) it takes place in accordance with a warrant issued by the Secretary of State, pursuant to s.5(1) of the Act”.*

S.2 – Meaning and location of “interception” etc: (2) *“For the purposes of this Act, but subject to the following provisions of this section, a person intercepts a communication in the course of its transmission by means of a telecommunication system if, and only if, he- (a) so modifies or interferes with the system, or its operation, (b) so monitors transmissions made by means of the system, or (c) so monitors transmissions made by wireless telegraphy to or from apparatus comprised in the system - as to make some or all of the contents of the communication available, while being transmitted, to a person other than the sender or intended recipient of the communication”.*

S.5 – Interception with a warrant: (1) *“The Secretary of State may issue a warrant authorising or requiring the person to whom it is addressed... to secure any one or more of the following- (a) the interception in the course of their transmission by means of a postal service or telecommunication system of the communications described in the warrant”.*

(2) *“The Secretary of State shall not issue a warrant unless he believes- (a) that the warrant is necessary on grounds falling within subsection (3); and (b) that the conduct authorised by the warrant is proportionate to what is sought to be achieved by that conduct”.*

(3) The “necessary” grounds to justify the issue of a warrant are: (a) *“in the interests of national security”*; (b) *“the prevention or detection of serious crime”*; (c) *“to safeguard the economic well-being of the United Kingdom”*; or (d) *“to give effect to an international mutual assistance agreement in circumstances equivalent to those falling within (b)”.*

S.81: (2) *“In this Act- (a) references to crime are references to conduct which constitutes one or more criminal offences or is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom would constitute one or more criminal offences; and (b) references to serious crime are references to crime that satisfies the test in subsection (3)(a) or (b)”.*

(3) defines **“serious crime”** as: (a) *“an offence that would lead to imprisonment for a term of three years or more”*; (b) *“conduct involving the use of violence”*; or *“results in substantial financial gain”*, or *“conduct by a large number of persons in pursuit of a common purpose”.*

(5) *“Detecting crime”* includes: (a) *establishing by whom, for what purpose, by what means and generally in what circumstances any crime was committed; and (b) the apprehension of the person by whom any crime was committed - and any reference in this Act to preventing or detecting serious crime shall be construed accordingly, except that, in Chapter I of Part I, it shall not include a reference to gathering evidence for use in any legal proceedings”.*

“National security” is not defined in RIPA. The Interception of Communications Commissioner’s definition is: *“[activities] which threaten the safety or well-being of the State, and which are intended to undermine or overthrow Parliamentary democracy by political, industrial or violent means”.*

(4) Consideration of whether the requirements of subsection (2) are satisfied “shall include whether the information thought necessary to obtain could reasonably be obtained by other means”.

(6) “The conduct authorised by an interception warrant shall be taken to include: (a) “all such conduct (including the interception of communications not identified by the warrant) as it is necessary to undertake in order to do what is expressly authorised or required by the warrant”; (b) “conduct for obtaining related communications data; and” (c) “conduct by any person which is conduct in pursuance of a requirement imposed by or on behalf of the person to whom the warrant is addressed to be provided with assistance with giving effect to the warrant”.

S.6 – Application for issue of an interception warrant: (1) “An interception warrant shall not be issued except on an application made by or on behalf of a person specified in subsection 2”. (2) Those persons are- (a) “the Director-General of the Security Service”; (b) “the Chief of the Secret Intelligence Service”; (c) “the Director of GCHQ”; (d) “the Director General of the [Serious Organised Crime Agency]”; (e) “the Commissioner of Police of the Metropolis”...

S.7 – Issue of warrants: (1) “An interception warrant shall not be issued except- (a) under the hand of the Secretary of State”; (b) “in a case falling within subsection (2)[(a) or (b)], under the hand of a senior official”. (2) “Those cases are- (a) an urgent case in which the Secretary of State has himself expressly authorised the issue of the warrant”.

S.8 – Contents of warrants: (1) “An interception warrant must name or describe either (a) one person as the interception subject... (2) Describe the communications authorised to be intercepted or required. (3) “...identify the communications which are likely to be or to include- (a) communications from, or intended for, the person named or described in the warrant in accordance with subsection (1); or (b) communications originating on, or intended for transmission to, the premises so named or described”.

(5) “Conduct falls within this subsection if it consists in- (a) the interception of external communications in the course of their transmission by means of a telecommunication system; and (b) any conduct authorised in relation to any such interception by section 5(6)”.

S.9 – Duration and cancellation of warrants: (2) “An interception warrant shall not be renewed under subsection (1) unless the Secretary of State believes that the warrant continues to be necessary on grounds falling within s.5(3)”. Warrants are issued / renewed for a period of 6 months (**s.9(6)(ab) and (b)**).

S.17 - Exclusion of matters from legal proceedings: (1) “Subject to section 18, no evidence shall be adduced, question asked, assertion or disclosure made or other thing done in, for the purposes of or in connection with any legal proceedings [or Inquiries Act proceedings] which (in any manner)- (a) discloses, in circumstances from which its origin in anything falling within subsection (2) may be inferred, any of the contents of an intercepted communication or any related communications data; or (b) tends (apart from any such disclosure) to suggest that anything falling within subsection (2) has or may have occurred or be going to occur”.

(2) “The following fall within this subsection- (a) conduct by a person falling within subsection (3) that was or would be an offence under section 1(1) or (2) of this Act or under section 1 of the Interception of Communications Act 1985”; (b) a breach by the Secretary of State of his duty under section 1(4) of this Act (NB: party to an international agreement); (c) the issue of an interception warrant or of a warrant under the Interception of Communications Act 1985; (d) the making of an application by any person for an interception warrant, or for a warrant under that

Act; (e) *the imposition of any requirement on any person to provide assistance with giving effect to an interception warrant*”.

(3) *“The persons referred to in subsection (2)(a) are- (a) any person to whom a warrant under this Chapter may be addressed; (b) any person holding office under the Crown; [(c) any member of the staff of the Serious Organised Crime Agency;] (e) any person employed by or for the purposes of a police force; (f) any person providing a postal service or employed for the purposes of any business of providing such a service; and (g) any person providing a public telecommunications service or employed for the purposes of any business of providing such a service”*.

S.18 – Exceptions to section 17 – (1) *“Section 17(1) shall not apply in relation to- (a) any proceedings for a relevant offence; (c) any proceedings before the Tribunal; (d) any proceedings on an appeal or review for which provision is made by an order under section 67(8)”*

(7) *“Nothing in section 17(1) shall prohibit any such disclosure of any information that continues to be available for disclosure as is confined to- (a) a disclosure to a person conducting a criminal prosecution for the purpose only of enabling that person to determine what is required of him by his duty to secure the fairness of the prosecution; (b) a disclosure to a relevant judge in a case in which that judge has ordered the disclosure to be made to him alone”. (8) “A relevant judge shall not order a disclosure under subsection (7)(b) except where he is satisfied that the exceptional circumstances of the case make the disclosure essential in the interests of justice”*.

Part II – Surveillance and covert human intelligence sources

Authorisation of surveillance and human intelligence sources

S.26 – Conduct to which Part II applies: (1) *“This Part applies to the following conduct- (a) directed surveillance; (b) intrusive surveillance; and (c) the conduct and use of covert human intelligence sources”*.

(2) *“...surveillance is directed...if it is covert but not intrusive and is undertaken- (a) for the purposes of a specific investigation or a specific operation; (b) in such a manner as is likely to result in obtaining of private information about a person...”*

(3) *“...surveillance is intrusive...if it is covert surveillance (a) carried out in relation to anything taking place on any residential premises and (b) ...is carried out by means of a surveillance device”*

(8) *“...a person is a covert human intelligence source if- (a) he establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph (b) or (c); (b) he covertly uses such a relationship to obtain information or to provide access to any information to another person; or (c) he covertly discloses information obtained by the use of such a relationships, or as a consequence of the existence of such a relationship”*

(10) *“...”private information”, in relation to a person, includes any information relating to his private or family life”*

S.27 - Lawful surveillance etc: (1) *“Conduct to which this Part applies shall be lawful for all purposes if- (a) an authorisation under this Part confers an entitlement to engage in that*

conduct on the person whose conduct it is; and (b) his conduct is in accordance with the authorisation”.

(2) “A person shall not be subject to any civil liability in respect of any conduct of his which- (a) is incidental to any conduct that is lawful by virtue of subsection (1); and (b) is not itself conduct an authorisation or warrant for which is capable of being granted under a relevant enactment and might reasonably have been expected to have been sought in the case in question”.

(3) “The conduct that be may authorised includes outside the United Kingdom”

(4) “In this section “relevant enactment” means- (a) an enactment contained in this Act, (b) section 5 of the Intelligence Services Act 1994 (warrants for the intelligence services); or (c) an enactment contained in Part III of the Police Act 1997 (powers of the police and of [officers of Revenue and Customs])”.

S.28 – Authorisation for direct surveillance: (2) A person authorised in Part I or II of Schedule 1 to grant an authorisation for directed surveillance can only do so (a) *“if he believes that it is necessary on the grounds falling under s.28(3)”*, and (b) *“that the authorised surveillance is proportionate to what is sought to be achieved by carrying it out”*.

(3) The grounds are: (a) “in the interests of national security”; (b) “for the prevention or detection of crime or prevention of disorder”; (c) “to safeguard the economic well-being of the United Kingdom”; (d) “for public safety”; (e) “to protect public health”; (f) “for the assessment and collection of taxes...”; or (g) “for any purpose (not falling within paragraphs (a) to (f)) specified by an order from the Secretary of State”.

(4) “The conduct that is authorised by an authorisation for the carrying out of directed surveillance is any conduct that- (a) consists in the carrying out of directed surveillance of any such description as is specified in the authorisation; and (b) is carried out in the circumstances described in the authorisation and for the purposes of the investigation or operation specified or described in the authorisation”.

S.29 – Authorisation of covert human intelligence sources: (2) A person authorised in Part I of Schedule 1 to grant an authorisation for covert human intelligence can only do so *“if he believes”* (a) *“that it is necessary and proportionate to what is sought to be achieved by that conduct”*. The grounds for justification, stated under s.29(3) are as per s.28(3), listed above.

S.30 – Persons entitled to grant authorisation under ss 28 and 29: (2) *“For the purposes of the grant of an authorisation that combines- (a) an authorisation under section 28 or 29, and (b) an authorisation by the Secretary of State for the carrying out of intrusive surveillance, the Secretary of State himself shall be a person designated for the purposes of that section”.*

*(4) In relation to s.28 (directed surveillance), the relevant public authorities are specified under Pt I or II of Sch.1, and in relation to s.29 (covert human intelligence), under Pt 1. **Pt I of Sch.1** includes: police forces; government departments including: Communities and local government (which covers private housing); Ministry of Justice; Home Office; local authorities. **Pt II of Sch.1** includes the National Health Service.*

S.32 – Authorisation of intrusive surveillance: (1) *“Subject to the following provisions of this Part, the Secretary of State and each of the senior authorising officers shall have power to grant authorisations for the carrying out of intrusive surveillance”.*

(2) *“Neither the Secretary of State nor any senior authorising officer shall grant authorisations for the carrying out of intrusive surveillance unless he believes- (a) that the authorisation is necessary on grounds falling within subsection (3); and (b) that the authorised surveillance is proportionate to what is sought to be achieved by carrying it out”.*

(3) The grounds for justification are: (a) *“in the interest of national security”*; (b) *“for the prevention or detection of serious crime”*; (c) *“in the interests of the economic well-being of the United Kingdom”*.

(4) *“The matters to be taken into account in considering whether the requirements of subsection (2) are satisfied in the case of any authorisation shall include whether the information which it is thought necessary to obtain by the authorised conduct could reasonably be obtained by other means”.*

(5) *“The conduct that is authorised...is any conduct that- (a) consists in the carrying out of intrusive surveillance of any such description as is specified in the authorisation; (b) is carried out in relation to the residential premises specified or described in the authorisation...; and (c) is carried out for the purposes of, or in connection with, the investigation or operation so specified or described”.*

(6) *“For the purposes of this section the senior authorising officers are- (b) the Commissioner of Police of the Metropolis and every Assistant Commissioner of Police of the Metropolis”* (NB: and many others – including the Independent Police Complaints Commission: (Investigatory Powers) Order 2004, SI 2004/815, art 3(1), (2))

S.41 – Secretary of State authorisations: (1) *“The Secretary of State shall not grant an authorisation for the carrying out of intrusive surveillance except on application made by- (a) a member of any of the intelligence services ;...(d) an individual holding an office, rank or position with any such public authority as may be designated for the purposes of this section as an authority whose activities may require the carrying out of intrusive surveillance”* (NB: others are listed)

S.44 – Special rules for intelligence services authorisations: (1) *“...a warrant containing an authorisation for the carrying out of intrusive surveillance... (b)...shall not be renewed, except under the hand of the Secretary of State”*

Part IV – Scrutiny etc of investigatory powers and the function of the intelligence services

S.65 – The Tribunal: (2) *“The jurisdiction of the Tribunal shall be- (a) to be the only appropriate tribunal for the purposes of section 7 of the Human Rights Act 1998 in relation to any proceedings under subsection (1)(a) of that section (proceedings for actions incompatible with Convention rights) which fall within subsection (3) of this section; (b) to consider and determine any complaints made to them which, in accordance with sub-section (4) [. . .], are complaints for which the Tribunal is the appropriate forum; (c) to consider and determine any reference to them by any person that he has suffered detriment as a consequence of any prohibition or restriction, by virtue of **section 17**, on his relying in, or for the purposes of, any civil proceedings on any matter...”.*

(3) *“Proceedings fall within this subsection if- (a) they are proceedings against any of the intelligence services; (b) they are proceedings against any other person in respect of any conduct, or proposed conduct, by or on behalf of any of those services; (c) they are proceedings*

brought by virtue of section 55(4) (NB: General duties of specified authorities); [or] (d) they are proceedings relating to the taking place in any challengeable circumstances of any conduct falling within subsection (5)”.

(4) *“The Tribunal is the appropriate forum for any complaint if it is a complaint by a person who is aggrieved by any conduct falling within subsection (5) which he believes- (a) to have taken place in relation to him, to any of his property, to any communications sent by or to him, or intended for him, or to his use of any postal service, telecommunications service or telecommunication system; and (b) to have taken place in challengeable circumstances or to have been carried out by or on behalf of any of the intelligence services”.*

(5) *“Subject to subsection (6), conduct falls within this subsection if (whenever it occurred) it is- (a) conduct by or on behalf of any of the intelligence services; (b) conduct for or in connection with the interception of communications in the course of their transmission by means of a postal service or telecommunication system; (c) conduct to which Chapter II of Part I applies (NB: Acquisition and disclosure of communications data); (d) [other] conduct to which Part II applies (NB: Surveillance and covert human intelligence sources); (f) any entry on or interference with property or any interference with wireless telegraphy”.*

(6) *“For the purposes only of subsection (3), nothing mentioned in paragraph (d) or (f) of subsection (5) shall be treated as falling within that subsection unless it is conduct by or on behalf of a person holding any office, rank or position with- (a) any of the intelligence services; (c) any police force; (d) the Serious Organised Crime Agency.*

(7) *“For the purposes of this section conduct takes place in challengeable circumstances if- (a) it takes place with the authority, or purported authority, of anything falling within subsection (8); or (b) the circumstances are such that (whether or not there is such authority) it would not have been appropriate for the conduct to take place without it, or at least without proper consideration having been given to whether such authority should be sought; but conduct does not take place in challengeable circumstances to the extent that it is authorised by, or takes place with the permission of, a judicial authority”*

(8) *“The following fall within this subsection- (a) an interception warrant or a warrant under the Interception of Communications Act 1985; (b) an authorisation or notice under Chapter II of Part I of this Act (NB: Acquisition and disclosure of communications data); (c) an authorisation under Part II of this Act (NB: Surveillance and covert human intelligence sources); (f) an authorisation under section 93 of the Police Act 1997” (NB: see below).*

S.67 – Exercise of the Tribunal’s jurisdiction: (1) *“Subject to subsections (4) and (5), it shall be the duty of the Tribunal- (a) to hear and determine any proceedings brought before them by virtue of section 65(2)(a) or (d); and (b) to consider and determine any complaint or reference made to them by virtue of section 65(2)(b) or (c)”.*

(2) *“Where the Tribunal hear any proceedings by virtue of section 65(2)(a), they shall apply the same principles for making their determination in those proceedings as would be applied by a court on an application for judicial review”.*

(3) In considering a complaint under s.65(2)(b), *“the duty of the Tribunal is- (a) to investigate whether the persons against whom any allegations are made in the complaint have engaged in relation to- (i) the complainant, (ii) any of his property, (iii) any communications sent by or to him, or intended for him, or (iv) his use of any postal service, telecommunications service or telecommunication system - in any conduct falling within section 65(5); (b) to investigate the*

authority (if any) for any conduct falling within section 65(5) which they find has been so engaged in; and (c) in relation to the Tribunal's findings from their investigations, to determine the complaint by applying the same principles as would be applied by a court on an application for judicial review”.

(5) *“Except where the Tribunal, having regard to all the circumstances, are satisfied that it is equitable to do so, they shall not consider or determine any complaint made by virtue of section 65(2)(b) if it is made more than one year after the taking place of the conduct to which it relates”.*

(7) *“Subject to any provision made by rules under section 69, the Tribunal on determining any proceedings, complaint or reference shall have power to make any such award of compensation or other order as they think fit; and, without prejudice to the power to make rules under section 69(2)(h), the other orders that may be made by the Tribunal include- (a) an order quashing or cancelling any warrant or authorisation; and (b) an order requiring the destruction of any records of information which- (i) has been obtained in exercise of any power conferred by a warrant or authorisation; or (ii) is held by any public authority in relation to any person”.*

(8) *“Except to such extent as the Secretary of State may by order otherwise provide, determinations, awards, orders and other decisions of the Tribunal (including decisions as to whether they have jurisdiction) shall not be subject to appeal or be liable to be questioned in any court”.*

S.68 – Tribunal procedures: (4) *“Where the Tribunal determine any proceedings, complaint or reference brought before or made to them, they shall give notice to the complainant which (subject to any rules made by virtue of section 69(2)(i)) shall be confined, as the case may be, to either- (a) a statement that they have made a determination in his favour; or (b) a statement that no determination has been made in his favour”.*

S.69 – Tribunal rules: Summary of s.69(4): The Tribunal has the power to make its own rules: consider any complaint behind closed doors ((a) and (b)); give a summary of any evidence to the complainant ((c)); limit the reasons given, as well as the disclosure of particular matters ((d)). Details:

“The power to make rules under this section includes power to make rules-

(a) *“enabling or requiring the Tribunal to hear or consider any proceedings, complaint or reference without the person who brought the proceedings or made the complaint or reference having been given full particulars of the reasons for any conduct which is the subject of the proceedings, complaint or reference”;*

(b) *“enabling or requiring the Tribunal to take any steps in exercise of their jurisdiction in the absence of any person (including the person bringing the proceedings or making the complaint or reference and any legal representative of his)”;*

(c) *“enabling or requiring the Tribunal to give a summary of any evidence taken in his absence to the person by whom the proceedings were brought or, as the case may be, to the person who made the complaint or reference”;*

(d) *“enabling or requiring the Tribunal to exercise their jurisdiction, and to exercise and perform the powers and duties conferred or imposed on them (including, in particular, in relation to the giving of reasons), in such manner provided for in the rules as prevents or limits the disclosure of particular matters”.*

(6) The extent of disclosure is governed by (b) *“the need to secure that information is not disclosed to an extent, or in a manner, that is contrary to the public interest or prejudicial to national security, the prevention or detection of serious crime, the economic well-being of the United Kingdom or the continued discharge of the functions of any of the intelligence services”*.

Schedule 1 – Relevant public authorities (re. s.30)

Part I - Relevant Authorities for the Purposes of ss 28 (NB: directed surveillance) and **29** (NB: covert human intelligence)

1. Any police force.

5. Any of the intelligence services.

[9A. The Department for Communities and Local Government] (NB: inserted by SI 2006/1926, art 9, Schedule, para 7 - Date in force: 21 Aug 06: see SI 2006/1926, art 1(2)).

[10ZA. The Office of the Deputy Prime Minister.] (NB: inserted by SI 2002/2626, art 20, Sch 2, para 24(b) - Date in force: 25 Nov 02: see SI 2002/2626, art 1(2)).

13. The Home Office.

[13ZA. The Ministry of Justice.] (NB: inserted by SI 2007/2128, art 8, Schedule, Pt 1, para 7 - Date in force: 22 Aug 07: see SI 2007/2128, art 1(2); for transitional provisions see art 7 thereof).

[17. Local Authorities - Any county council or district council in England, a London borough council, the Common Council of the City of London in its capacity as a local authority, the Council of the Isles of Scilly, and any county council or county borough council in Wales.] (NB: substituted by SI 2003/3171, art 2(1), (4) - Date in force: 5 Jan 04: see SI 2003/3171, art 1(1))

(NB: And many more)

Part II - Relevant Authorities for the Purposes Only of s 28 (NB: directed surveillance)

NHS bodies in England and Wales

26 - A Special Health Authority established under [section 28 of the National Health Service Act 2006 or section 22 of the National Health Service (Wales) Act 2006].

(NB: And many more)

2.14 Investigatory Powers Tribunal Rules

Rule 6 - Disclosure of information: (1) *“The Tribunal shall carry out their functions in such a way as to secure that information is not disclosed to an extent, or in a manner, that is contrary to the public interest or prejudicial to national security, the prevention or detection of serious crime, the economic well-being of the United Kingdom or the continued discharge of the functions of any of the intelligence services”*.

(2) *“Without prejudice to this general duty, but subject to paragraphs (3) and (4), the Tribunal may not disclose to the complainant or to any other person- (a) the fact that the Tribunal have held, or propose to hold, an oral hearing under rule 9(4); (b) any information or document disclosed or provided to the Tribunal in the course of that hearing, or the identity of any witness at that hearing; (c) any information or document otherwise disclosed or provided to the Tribunal by any person pursuant to section 68(6) of the Act (or provided voluntarily by a person specified in section 68(7)); (d) any information or opinion provided to the Tribunal by a Commissioner pursuant to section 68(2) of the Act; (e) the fact that any information, document, identity or opinion has been disclosed or provided in the circumstances mentioned in sub-paragraphs (b) to (d)”*.

Under **Rule 6(3)**, to disclose information to the complainant, the Tribunal must seek consent from the parties who supplied it. Under **Rule 6(4)**, it cannot order the disclosure of information which it would be prohibited from disclosing.

Rule 9(2): The Tribunal is not required to hold oral hearings. If it does, they are held in private (**Rule 9(6)**).

3. Statutory guidance / guidance

3.1 [Home Office Guidance – Police Officer Misconduct, Unsatisfactory Performance and Attendance Management Procedures](#)

1.2 *“The standards of professional behaviour also reflect relevant principles enshrined in the European Convention on Human Rights and the Council of Europe Code of Police Ethics”*

1.4 *“The public have the right to expect the police service to protect them by upholding the law and providing a professional police service”*

1.5 *“Those entrusted to supervise and manage others...have a particular responsibility to maintain standards of professional behaviour by demonstrating strong leadership and by dealing with conduct which has fallen below these standards in an appropriate way...”*

Honesty and Integrity – “Police officers:

1.12 *“are honest, act with integrity and do not compromise or abuse their position”*.

1.13 *“are open and truthful in their dealings with the public and their colleagues...”*

1.14 *“do not knowingly make any false, misleading or inaccurate oral or written statements or entries in any record or document kept or made in connection with any police activity”*

Authority, Respect and Courtesy – “Police officers”:

1.19 *“do not abuse their powers or authority and respect the rights of all individuals”*.

1.20 *“[recognise] The public have the right to expect that such powers are used professionally, impartially and with integrity, irrespective of an individual’s status”*.

1.21 *“do not harass or bully colleagues or members of the public...”*

1.22 *“do not, under any circumstances inflict, instigate or tolerate any act of inhuman or degrading treatment (as enshrined in Article 3 of the European Convention on Human Rights)”.*

1.23 *“recognise that some individuals who come into contact with the police, such as victims, witnesses or suspects, may be vulnerable and therefore may require additional support and assistance”.*

Equality and Diversity – “Police officers”:

1.26 *“act with fairness and impartiality. They do not discriminate unlawfully or unfairly”.*

1.27 *“carry out their duties with fairness and impartiality and in accordance with current equality legislation. In protecting others’ human rights, they act in accordance with Article 14 of the European Convention on Human Rights”.*

1.29 *“pay due regard to the need to eliminate unlawful discrimination...”*

Orders and Instructions – “Police officers”:

1.38 *“only give and carry out lawful orders and instructions”.*

1.42 *“do not give orders or instructions which they do not reasonably believe are lawful”.*

Duties and Responsibilities

1.45 *“Police officers are diligent in the exercise of their duties and responsibilities”*

Confidentiality

1.52 *“Police officers do not provide information to third parties who are not entitled to it. This includes for example...approaches by private investigators...”*

Discreditable Conduct

1.60 *“Police officers behave in a manner which does not discredit the police service or undermine public confidence, whether on or off duty”*

1.62 *“Discredit can be brought on the police service by an act itself or because public confidence in the police is undermined...”*

Challenging and Reporting Improper Conduct

1.77 *“Police officers report, challenge or take action against the conduct of colleagues which has fallen below the standards of professional behaviour expected”.*

1.78 *“Police officers are expected to uphold the standards of professional behaviour in the police service by taking appropriate action if they come across the conduct of a colleague which has fallen below these standards. They never ignore such conduct”.*

3.2 [IPCC Statutory Guidance to the police service and police authorities on the handling of complaints](#)

(See extracts on the [police page, under # 5.4](#) ; also, analysis under [QB # 5\(3\)](#))

4. Civil Procedure Rules ('CPR')

4.1 Overriding Objective

Rule 1.1(1): *“These Rules are a new procedural code with the overriding of enabling the court to deal with cases justly”.*

Rule 1.1(2) *“Dealing with a case justly includes, so far as is practicable- (a) ensuring that the parties are on an equal footing; (b) saving expense; (c) dealing with the case in ways which are proportionate- (i) to the amount of money involved; (ii) to the importance of the case; (iii) to the complexity of the issues; and (iv) to the financial position of each party; (d) ensuring that it is dealt with expeditiously and fairly...”.*

Rule 1.2: *“The court must seek to give effect to the overriding objective when it– (a) exercises any power given to it by the Rules...”.*

Rule 1.3: *“The parties are required to help the court to further the overriding objective”.*

Rule 1.4(1): *“The court must further the overriding objective by actively managing cases”.*

Rule 1.4(2): *“Active case management includes – (a) encouraging the parties to co-operate with each other in the conduct of the proceedings; (b) identifying the issues at an early stage; (c) deciding promptly which issues need full investigation and trial and accordingly disposing summarily of the others; (d) deciding the order in which issues are to be resolved; (e) encouraging the parties to use an alternative dispute resolution procedure if the court considers that appropriate and facilitating the use of such procedure; (f) helping the parties to settle the whole or part of the case; (g) fixing timetables or otherwise controlling the progress of the case; (h) considering whether the likely benefits of taking a particular step justify the cost of taking it...(l) giving directions to ensure that the trial of a case proceeds quickly and efficiently”.*

4.2 Striking out statement of case

Rule 3.4(2): *“The court may strike out a statement of case if it appears to the court (a) that the statement of case discloses no reasonable grounds for bringing or defending the claim”.*

Practice Direction 3, para 1.4: *“The following are examples of cases where the court may conclude that particulars of claim...fall within rule 3.4(2)(a): (1) those which set out no facts indicating what the claim is about..., (2) those which are incoherent and make no sense, (3) those which contain a coherent set of facts but those facts, even if true, do not disclose any legally recognisable claim against the defendant. **Para.1.5:** “A claim may fall within rule 3.4(2)(b) where it is vexatious, scurrilous or obviously ill-founded”.*

4.3 Summary judgment

Rule 24.2: *“The court may give summary judgment against a claimant...on the whole of a claim or on a particular issue if– (a) it considers that– (i) that claimant has no real prospect of succeeding on the claim or issue...(b) there is no other compelling reason why the case or issue should be disposed of at a trial. (Rule 3.4 makes provision for the court to strike out a*

statement of case or part of a statement of case if it appears that it discloses no reasonable grounds for bringing or defending a claim).

Practice Direction 24, para.2(3): *“The application notice or the evidence contained or referred to in it or served with it must – (a) identify concisely any point of law or provision in a document on which the applicant relies, and/or (b) state that it is made because the applicant believes that on the evidence the respondent has no real prospect of succeeding on the claim or issue or (as the case may be) of successfully defending the claim or issue, and in either case state that the applicant knows of no other reason why the disposal of the claim or issue should await trial”.*

4.4 Statement of truth

Practice Direction 22, para.3.7: *“Where a party is legally represented, the legal representative may sign the statement of truth on his behalf. The statement signed by the legal representative will refer to the client’s belief, not his own”*

Pra.3.8: *“Where a legal representative has signed a statement of truth, his signature will be taken by the court as his statement: (1) that the client on whose behalf he has signed had authorised him to do so, (2) that before signing he had explained to the client that in signing the statement of truth he would be confirming the client’s belief that the facts stated in the document were true, and (3) that before signing he had informed the client of the possible consequences to the client if it should subsequently appear that the client did not have an honest belief in the truth of those facts (see rule 32.14)”*

Rule 32.14(1): *“Proceedings for contempt of court may be brought against a person if he makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth”*

4.5 Statement of costs

Practice Direction 44, para.13.5: (2) *“Each party who intends to claim costs must prepare a written statement of those costs...(4) The statement of costs must be filed at court and copies of it must served on any party against whom an order for payment of those costs is intended to be sought...it must be served...(b)...not less than 24 hours before the time fixed for the hearing”.*

Para.13.6: *“The failure by a party, without reasonable excuse, to comply will be taken into account by the court in deciding what order to make about costs...”.*

4.6 Appeals

Rule 52.16(7): *“(Section 54(6) of the Supreme Court Act 1981 provides that there is no appeal from the decision of a single judge on an application for permission to appeal)”*