

DATED 7th August 2007

AN AGREEMENT

Between

THE SECRETARY OF STATE FOR DEFENCE

And

THE INDEPENDENT POLICE COMPLAINTS COMMISSION

AN AGREEMENT made the 7th day of August 2007

BETWEEN

THE SECRETARY OF STATE FOR DEFENCE

and

THE INDEPENDENT POLICE COMPLAINTS COMMISSION

WHEREAS

- (1) By virtue of section 1 of the Ministry of Defence Police Act 1987¹ the Secretary of State for Defence maintains a body of constables known as the Ministry of Defence Police, part of which body serves in England and Wales.
- (2) It is the intention of the Parties that any matter referred to in paragraph (3) of this preamble that is recorded on or after the date on which this agreement comes into effect in connection with the conduct in England or Wales or adjacent United Kingdom waters of officers of the Ministry of Defence Police or a death or serious injury (as defined in this agreement) occurring in England or Wales or adjacent United Kingdom waters and any resulting investigation or other procedure in relation thereto shall be dealt with in accordance with Part II of, and Schedule 3 to, the Police Reform Act 2002² and the regulations and statutory guidance made thereunder as if the said Part II of, and Schedule 3 to, the Police Reform Act 2002 applied to the Ministry of Defence Police.
- (3) The matters referred to in paragraph (2) of this preamble are:
 - (i) any complaint made about the conduct in England or Wales or adjacent United Kingdom waters of an officer of the Ministry of Defence Police
 - (ii) any conduct matter coming to the attention of the appropriate authority which is not and has not been the subject of a complaint but in relation to which there is an indication that such a person may have committed a criminal offence or behaved in a way that would justify the bringing of disciplinary proceedings, whether or not that indication arises as a consequence of a civil action brought against the Secretary of State for Defence or otherwise
 - (iii) any death or serious injury (as defined in this agreement)

¹ c.4

² c. 30

IN PURSUANCE of section 26 of the Police Reform Act 2002 and the Independent Police Complaints Commission (Forces Maintained Otherwise than by Police Authorities) Order 2004³, and with the consent of the Secretary of State for the Home Department given under section 26(4) of that Act, the Parties agree as follows:

Citation, commencement and interpretation

1. This agreement may be cited as the Secretary of State for Defence and the Independent Police Complaints Commission Agreement 2007 and shall come into effect on 7 August 2007

2. In this agreement:

‘the 2002 Act’ means the Police Reform Act 2002 (as amended from time to time);

‘complaint’ shall be construed in accordance with sections 12 and 29 of the 2002 Act;

‘conduct matter’ shall be construed in accordance with sections 12 and 29 of the 2002 Act;

‘death or serious injury’ and ‘death or serious injury matter’ shall be construed in accordance with section 12(2A), (2B), (2C) and (2D) of the 2002 Act (as amended by the Serious Organised Crime and Police Act 2005⁴) but as if the expression ‘an officer’ (as defined in this agreement) were substituted for ‘a person serving with the police’;

‘the appropriate authority’, where it appears in the 2002 Act or in either the conduct regulations or the complaints and misconduct regulations, in relation to an officer or an employee or in relation to any complaint, matter or investigation relating to the conduct of such a person, means –

(a) if that person is a senior officer, the Defence Secretary; and

(b) if he is not a senior officer, the chief officer;

‘the Commission’ means the Independent Police Complaints Commission;

‘the chief officer’ means the Chief Constable for the Ministry of Defence Police and includes a reference to an officer discharging the functions of the Chief Constable;

‘officers’ means constables (including the Chief Constable and any Deputy Chief Constable and Assistant Chief Constable) and special constables of the Ministry of Defence Police;

‘the Parties’ mean the Commission and the Defence Secretary;

‘the Defence Secretary’ means the Secretary of State for Defence;

‘senior officer’ means an officer holding a rank above that of chief superintendent;

‘the conduct regulations’ means the Ministry of Defence Police (Conduct) Regulations 2004 and the Ministry of Defence Police (Conduct) (Senior Officers) Regulations 2004⁵ (in each case as amended from time to time);

³ S.I. 2004/672)

⁴ c.15

⁵ S.I. 2004/653 and 654

‘the complaints and misconduct regulations’ means the Police (Complaints and Misconduct) Regulations 2004⁶ (as amended from time to time);and;

‘the appeal rules’ means the Ministry of Defence Police Appeal Tribunals Regulations 2004⁷ (as amended from time to time).

Application of the Police Reform Act 2002 and Regulations

3. A complaint about an officer shall be deemed to be a complaint about a person serving with the police for the purposes of Part II of the 2002 Act and shall be treated as if the Defence Secretary were a police authority and the chief officer were a chief officer for the purposes of Part II of the 2002 Act and as if Part II of the 2002 Act applied to it.
4. A conduct matter in relation to an officer shall be deemed to be a conduct matter in relation to a person serving with the police for the purposes of Part II of the 2002 Act and shall be treated as if the Defence Secretary were a police authority and the chief officer were a chief officer for the purposes of Part II of the 2002 Act and as if Part II of the 2002 Act applied to that matter.
5. A death or serious injury shall be deemed to be a death or serious injury for the purposes of Part II of the 2002 Act and shall be treated as if the Defence Secretary were a police authority and the chief officer were a chief officer for the purposes of Part II of the 2002 Act and as if Part II of the 2002 Act applied to it.
6. The complaints and misconduct regulations shall be construed in accordance with Article 2 of this agreement and shall be given effect by the parties as if Part II of the 2002 Act applied to officers.
7. The Defence Secretary shall from time to time take all such steps as may be necessary to ensure that the conduct regulations and the appeal rules are amended or replaced from time to time so that the same regulations as to conduct, professional standards and discipline (*mutatis mutandis*) apply to officers as apply to police officers (as defined in the Police (Conduct) Regulations 2004).

Responsibilities of the Parties

8. The Defence Secretary will, and will ensure that the chief officer will, undertake the duties and obligations imposed on and exercise the rights and powers granted to the appropriate authority under Part II of the 2002 Act and the regulations and statutory guidance made thereunder as if the Defence Secretary and the chief officer were respectively a police authority and a chief officer to whom the 2002 Act applied.

⁶ S.I. 2004/643

⁷ S.I. 2004/652

9. The Commission will exercise the functions, duties and rights either imposed on it, or granted to it, under the 2002 Act as if the Ministry of Defence Police was a police force to whom the 2002 Act applies.
10. The Defence Secretary shall ensure that in discharging their obligations and duties under Part II of the 2002 Act the appropriate authority shall have regard to any guidance issued by the Commission under the Act.

General

11. The arrangements set out in this agreement have been approved by the Secretary of State for the Home Department and shall apply to all complaints made or conduct matters or death or serious injury matters arising after this agreement comes into effect.
12. Nothing in this Agreement shall be interpreted as deeming any provision of the 2002 Act or any regulations made under the Act to apply to conduct of officers outside England and Wales and the adjacent United Kingdom waters or any death or serious injury that occurs outside England and Wales and the adjacent United Kingdom waters.
13. This Agreement revokes and replaces all previous agreements made with the Police Complaints Authority.

Signed by
On behalf of the Secretary of State for Defence

Signed by
On behalf of the Independent Police Complaints Commission

Approved by.....
Secretary of State for the Home Department
in accordance with section 26(4) of the 2002 Act