

CONSULTATION RESPONSE

TO	Her Majesty's Inspectorate of Constabulary and Fire & Rescue Service
FROM	Independent Office for Police Conduct (IOPC)
REGARDING	Proposed policing inspection programme and framework 2020/21

Our interest in this matter

1. The IOPC, formerly the IPCC (Independent Police Complaints Commission) came into existence in January 2018. The IPCC came into existence in April 2004.
2. The IOPC oversees the police complaints system in England and Wales and has a statutory duty to secure and maintain public confidence in that system. We are independent, and make decisions independently of the police, government and interest groups. We investigate the most serious complaints and incidents involving the police across England and Wales, as well as investigating some lower level matters if they fall into one of our current thematic areas of interest. We also handle certain appeals (or 'reviews' for those matters recorded following the legislative changes to the Policing and Crime Act on 1 February 2020) from people who are not satisfied with the way police have dealt with their complaint.
3. The IOPC has a concordat with Her Majesty's Inspectorate of Constabulary and Fire and Rescue Service (HMICFRS) and the College of Policing. The concordat sets out the relationship between the three organisations and states that all are involved in 'promoting and monitoring best practice and continuous improvement in policing, in order to ensure public confidence'.
4. Please note that we had developed a response to the original consultation but did not send it as the consultation was paused. As you have stated that you have considered the responses you did receive, please find our response to the original questions 2 and 3 at Annex B below. Our original answer to question 1 has been incorporated into the appropriate section below.

Consultation questions

Question 1: Does the revised programme seem reasonable and right?

5. The IOPC has always taken on the most serious complaints and incidents involving the police, we refer to this as our 'core work'. As of October 2018, the IOPC has adopted a more structured approach to selecting the additional cases we investigate, focusing on specific thematic areas. Our current thematic areas are abuse of power for a sexual purpose (APSP), road traffic incidents (RTIs), domestic abuse, and mental health. We will also shortly be launching race discrimination as a thematic area of focus.
6. Given our current interest in mental health, we are pleased that HMICFRS will be examining the multi-agency response to suspects and offenders who have mental ill health. This was raised as a particular concern by external stakeholders when we engaged them as part of our preparations to launch the mental health thematic area. We would be happy to discuss any opportunities for us to work together to identify common themes and potential actions to address them.
7. While we do not currently plan to launch a thematic area specifically focused on the policing response to COVID-19, it is an area of particular interest to us. We have ensured we have a knowledge base to draw from by implementing three COVID-19 specific case factors to allow us to quickly identify cases involving the policing response during the pandemic. The same three factors have been added to the national case factors on Centurion to ensure that both the IOPC and police forces are recording data about cases consistently.
8. Our oversight team worked closely with the College of Policing and FIS¹ in order to implement this change. They have continued to work with them, supported by data analysts in Thames Valley Police and South Wales Police, to develop a bespoke data extraction programme that will provide the precise data set that we require. This means we will be able to report on what concerns the public are raising about coronavirus on a monthly basis, as well as what the answer to those complaints has been and what the outcomes of them are. We intend to publish this data both internally and externally and would be happy to share this data with you once we are in a position to do so.
9. The other proposed areas do not directly fall into any of our current thematic areas. We would likely investigate the more serious cases falling into the proposed areas that are brought to our attention, but not all such cases. Accordingly, we are pleased that HMICFRS will be covering these areas.
10. In March 2018 we established the IOPC Youth Panel in response to findings that young people, and particularly those of BAME (Black Asian and Minority Ethnic) backgrounds, lack confidence in the police complaints system. The panel is made up of a diverse group of young adults who inform the work of

¹ The ICT supplier of Centurion.

the IOPC. The report² produced as a result of the panel's work showed that young people feel powerless in the face of police misconduct and do not trust the police, or the complaints system. We have found this engagement to be invaluable in informing our work. Accordingly, you may wish to consider similar engagement with young people as part of your work on serious youth violence. We would be happy to share the results of our own work, including the methods we used to carry out the engagement work.

Question 2: What do you think of the proposed approach to assessing police forces in PEEL 2020/21? How could this be improved?

11. Your proposal to publish certain recommendations at the point they are identified and reported to forces is in line with our approach. Where appropriate, we also publish responses from appropriate authorities to the learning recommendations we have made, so this change should enable a more consistent approach to how our organisations communicate recommendations. We welcome your proposed approach to publishing reports as soon as they are ready, as up to date information will help our considerations about whether to make our own learning recommendations around the same areas.
12. We also consider the move from the three 'pillars' of effectiveness, efficiency and legitimacy to the 'principal areas' of operational assessment, organisational assessment and service user assessment to be a positive one. The principal areas are clearer and more immediately understandable, particularly from a layman's perspective.
13. More detailed consideration of the context in which a force operates when carrying out your assessments is also a welcome addition. We note that in the 'Evaluation of the National Child Protection Inspection programme on policing' the extent to which the force context was taken into account influenced how achievable recommendations were, as well as improving perceptions of the efficacy of recommendations.
14. Finally, it is encouraging to see your proposal to carry out Victim Service Assessments. We are always supportive of a service user focused approach.

Question 3: Does the draft inspection methodology include the right inspection areas to gather evidence for a rounded assessment of police forces? How could this be improved?

15. The proposed inspection areas appear to be broadly similar to those used in your 2018/19 inspections, albeit they have now been rearranged under your 'principal areas' rather than the previously used 'pillars'. You may wish to ensure that the proposed areas include whether there is any evidence of, or how the particular force deal with, disproportionality in policing. This is becoming an increasingly prevalent issue in our own work, and for policing in the UK as a whole. We note this is partially addressed by your heading "The

² <https://policeconduct.gov.uk/news/iopc-youth-panel-publishes-report-outlining-barriers-having-trust-police-complaints-system>

force recognises and responds appropriately to the diversity of suspects and offenders” but you may wish to consider something more explicit, particularly in relation to stop & search and use of force.

Question 4: Do you agree with the proposal to make judgments based on the characteristics of ‘Good’, causes of concern and areas for improvement?

Question 5: Do you agree with the proposal to provide judgments at the core question level only?

Question 6: Which of our proposals, four or five tiers of judgments, do you think will most promote improvements in policing?

16. Our work does not provide a strong enough evidence base to effectively answer the above questions. However, we are supportive of any changes that increase the likelihood of inspections resulting in real, practical improvements to forces. Such improvements increase public confidence in the police by providing demonstrable learning and improvement.

Question 7: Do you have any comments on our proposed approach to inspecting partnership and collaboration arrangements?

17. We consider the inspection of partnership and collaboration arrangements to go hand in hand with considering the context in which a force operates. As noted at paragraph 16, we agree that this is an important consideration to make. The principles you have set out in order to do so seem suitable.
18. Further, we regularly encounter issues with partnership and collaboration agreements when carrying out our work. Accordingly, we welcome inspections aimed at improving this area and would be happy to provide any relevant information that may assist in carrying out this work.

IOPC

July 2020

Annex A – The IOPC and its remit

19. The IOPC, formerly the IPCC (Independent Police Complaints Commission), came into existence in January 2018. The IPCC came into existence in April 2004.
20. The IOPC oversees the police complaints system in England and Wales and has a statutory duty to secure and maintain public confidence in it. We are independent, and make decisions independently of the police, government and interest groups. We investigate the most serious complaints and incidents involving the police across England and Wales, as well as handling certain appeals from people who are not satisfied with the way police have dealt with their complaint.
21. Over time our original remit covering police forces across England and Wales has been extended to include:
 - Police and Crime Commissioners and their deputies
 - the London Mayor's Office for Policing and Crime and his deputy
 - certain specialist police forces (including the British Transport Police and the Ministry of Defence Police)
 - Her Majesty's Revenue and Customs (HMRC)
 - staff who carry out certain border and immigration functions who now work within the UK Border Force and the Home Office
 - the National Crime Agency (NCA)
 - officers carrying out certain functions at the Gangmasters and Labour Abuse Authority (GLAA)
22. The majority of complaints against the police are dealt with by the relevant police force (or agency) without IOPC involvement. However, certain types of complaints and incidents must be referred by the police to the IOPC. These include where someone has died or been seriously injured following direct or indirect contact with police, as well as allegations of serious corruption, serious assault, and a criminal offence or behaviour liable to lead to misconduct proceedings which in either case is aggravated by discrimination on specified grounds. We then decide whether an investigation is necessary, and, if so, what level of involvement we should have in that investigation. We may choose to conduct our own independent investigation, manage or supervise a police investigation, or decide that the matter can be dealt with locally by the police.

Annex B – Responses to original consultation

Please note the following responses were developed in March 2020 and have not been updated since:

Question 2: Are there any significant new or emerging problems in policing that HMICFRS should take into account in our inspection activity?

23. In response to the recent Covid-19 outbreak, the government has introduced emergency legislation to provide the police with new powers to support and enforce public health measures, including the power to detain people exhibiting symptoms of the illness. The legislation also gives the government the power to restrict or ban events and gatherings, which will require police involvement to implement if used. These are unusual powers being brought in to address unprecedented and challenging circumstances. HMICFRS may wish to consider, at an appropriate time, looking at how these powers have been used in practice to identify whether there is any learning for the future.
24. Both the IOPC investigation in relation to Operation Midland³ and your own inspection of the MPS found issues around search warrants and the use of HOLMES. In light of these findings you may wish to consider whether any of these issues merit wider exploration with other forces.
25. We made a national recommendation to the National Police Chiefs' Council (NPCC) around the need for clear national policy and guidance on police use of tactical contact in relation to two-wheeled vehicles and similarly vulnerable road users. This followed a number of our investigations which highlighted the need to clarify when the use of tactical stop powers is appropriate. The NPCC then worked with a number of stakeholders, including ourselves, to update the relevant guidance. The revised guidance was communicated to forces in October 2019⁴. The injuries caused by untrained officers employing tactical contact were serious, including broken legs and fractured skulls. Accordingly, you may wish to consider following up on whether the guidance has had the desired impact and reduced such injuries.
26. While it is not an area we have yet had cause to investigate ourselves, we note the introduction of facial recognition technology by police forces may become a future issue worth reviewing. There is already significant opposition to the technology from human rights groups such as Liberty and Stopwatch and academic research has repeatedly questioned its effectiveness and reliability, particularly in respect of ethnic minorities. Our youth panel work (referred to above) shows that BAME confidence in policing is low, and this is reflected in our other public confidence and engagement work. For example, our public perceptions tracker⁵ consistently shows that those of BAME backgrounds are less positive towards police in general and do not trust them to handle complaints fairly compared to those of other backgrounds.

³ <https://www.policeconduct.gov.uk/recommendations/national-recommendations-and-recommendations-made-metropolitan-police-service>

⁴ <https://www.policeconduct.gov.uk/news/guidance-updated-help-police-tackle-moped-crime-more-safely>

⁵ <https://policeconduct.gov.uk/research-and-learning/statistics/public-confidence-and-engagement>

Accordingly, we believe police use of facial recognition technology has the potential to contribute to disproportionality and/or perceptions of disproportionality in policing and as such is an area you may wish to consider.

Question 3: How else could HMICFRS adapt the way in which we acquire information, to take account of current circumstances and risks to public safety?

27. The IOPC regularly publishes data that would help inform and supplement the work undertaken in the Integrated PEEL Assessments. We produce quarterly and annual police complaints data and publish our organisational learning recommendations and a magazine – Learning the Lessons – with case studies for further learning⁶. We would advise HMICFRS to consider all such publications. We will also be looking at how we share any information about themes and trends emerging from our thematic case selection work referred to above. In addition, our ongoing oversight of forces can provide insight into areas of concern. In line with our concordat we are happy to provide you with data to inform your inspections.
28. From the consultation document, HMICFRS will also be inspecting the following non-Home Office forces that the IOPC has oversight over (please note we do not have oversight of the Royal Military Police, the Royal Navy Police, or the Police Service of Northern Ireland). Where available we are happy to provide insight and information in line with our concordat:
 - a. HM Revenue & Customs;
 - b. the National Crime Agency;
 - c. the British Transport Police;
 - d. the Gangmasters and Labour Abuse Authority;
 - e. the Civil Nuclear Constabulary.

⁶ <https://www.policeconduct.gov.uk/research-and-learning/learning-and-recommendations/learning-lessons/learning-lessons-library>