

CONSULTATION RESPONSE

TO	Home Office
FROM	Independent Office for Police Conduct (IOPC)
REGARDING	National guidance for community scrutiny panels

Our interest in this matter

1. 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 entirely independently of the police, government and interest groups.
2. We investigate the most serious and sensitive complaints and incidents involving the police, and set the standards by which the police should handle the complaints that they investigate. We also handle certain applications for review from people who are not satisfied with the way police have dealt with their complaint. For further information about our role, see Annex A.
3. As a result of our work, we have issued learning recommendations to police forces and national bodies in relation to the development and use of Community Scrutiny Panels (CSPs). Some of these recommendations can be seen in our published review of [IOPC cases involving use of Taser](#) and our National [Stop and Search Learning Report](#). We welcome the fact that much of what is covered in these reports about governance of scrutiny panels is addressed in the draft guidance.
4. Furthermore, we have a dedicated Stakeholder Engagement Team which is responsible for driving a culture of engagement across the organisation. They oversee how the IOPC works closely with stakeholders and communities to understand and respond to their concerns and build confidence in the police complaints system. They regularly speak with members of community scrutiny panels and independent advisory groups about their role in improving policing.

Consultation questions

Question 1: Do you believe this draft framework and terms of reference for community scrutiny of police powers achieves the aims set out in 'Inclusive Britain' Action 10?

5. Yes, there is clear direction in the guidance and terms of reference to ensure that CSPs are made up of a diverse group of people, reflective of the communities they represent. The terms of reference are also clear that the elected Chair should be independent.

Question 2: Does the draft framework strike the right balance between setting out key principles while allowing scope for flexibility in local scrutiny arrangements?

6. Yes.

Question 3: Is the draft framework clear and accessible for its intended audiences, including members and chairs of community scrutiny panels?

7. Yes; the draft guidance and terms of reference are clear and accessible; plain English is used across the documents, and where terms are used which may be unfamiliar to some individuals, definitions/explanations are provided.

Question 4: Are there any relevant considerations the draft framework has omitted or not sufficiently addressed?

Non-disclosure agreements

8. In paragraph 6.10, the guidance states, “[...] *Forces/PCCs may therefore wish to secure formal assurances with panel members via signed agreements including for non-disclosure*”. There may, of course, be information discussed with CSPs that needs to remain out of the public domain, such as police tactics, but it is the view of the IOPC that the use of measures such as non-disclosure agreements (NDAs) should be used with caution lest they risk discouraging openness and transparency with the communities the CSPs are put in place to reflect and serve.
9. One overarching aim of CSPs is to “*facilitate improvement in engagement and trust between the police, PCCs and the local community*” (paragraph 1.3 of the guidance). In addition, paragraph 7.4 states that “*CSP outputs (feedback) should be transparent, and panels should aim to publish their minutes/findings via the PCC/or force website or other independent website/local media*”. It should be made clear in the guidance that if NDAs are required, they should interfere as little as possible with these principles.

Interaction with the complaints system

10. Paragraph 7.8 of the guidance, which explains CSPs should not overlap with the IOPC, is helpful. However, it may be useful to strengthen this point further by recommending for forces to provide the CSPs with information about what can, and cannot, be referred to the IOPC, including examples of where the IOPC has investigated incidents as a result of the work of a scrutiny panel. For example, we independently investigated the stop and search of a Black man when the police force’s independent stop and search scrutiny panel raised concerns about the encounter and recommended referral to the IOPC.

11. The complaints system can be confusing, especially for those who do not work within it, and so this information is likely to be beneficial for panel members and for managing expectations regarding complaints and conduct matters.
12. Furthermore, we would welcome an amendment to the wording of paragraph 7.8. Currently, the paragraph states, “*For example, if the PCC/CC consider that a matter is potentially unlawful or unsafe, the formal complaints process via the force, in the first instance, and thereafter the IOPC, should be followed*”; however strictly speaking, in this example, the **complaints** process would not be applicable as the panel would not meet the criteria of a “*complainant*” as set out in legislation.
13. We suggest rewording the example to something like, “*For example, if the PCC/CC consider that a recordable conduct matter has been identified, the relevant formal process should be followed via the force in the first instance, and thereafter the IOPC.*”

Question 5: Do you have any other feedback on the draft framework and terms of reference?

14. Throughout the guidance the IOPC is referred to as the “*Independent Office of Police Conduct*”; we would be grateful if this can be corrected to “*Independent Office for Police Conduct*”.

IOPC
October 2023

Annex A – The IOPC and its remit

15. The IOPC, formerly the IPCC (Independent Police Complaints Commission), came into existence in January 2018. The IPCC came into existence in April 2004.
16. 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.
17. 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)
18. 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, direct a police investigation, or decide that the matter can be dealt with locally by the police.