

# FOCUS

Focus gives police force professional standards departments (PSDs) and local policing bodies practical guidance on dealing with complaints, conduct matters, and death or serious injury cases. It supports them to handle complaints appropriately and improves standards. This issue is about the handling of complaints in line with the *Policing and Crime Act 2017*.

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## Reviews

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There are several issues of [Focus](#) that provide guidance on how to handle a complaint within Schedule 3. These should be considered in addition to this issue of [Focus](#) and the [Statutory Guidance](#) when assessing a review.

## Initial considerations

### Relevant review body

Before proceeding with any review, it is important the local policing body checks it is the relevant review body. This is because there are two bodies that have the remit to conduct a review: the IOPC and local policing bodies.

The appropriate authority will decide who the relevant review body should be based on the wording of the complaint. That wording may have been clarified during initial contact with the complainant to discuss how they wanted their complaint to be handled. However, the merit of the complaint or the possible outcomes should not be considered by the appropriate authority when making this decision. See Chapter 18 in the [Statutory Guidance](#) and [Focus](#) issue 'Handling decisions and thresholds' for more information about applying the relevant review body test.

If the IOPC is named as the relevant reviewing body but the complainant has sent the review to the wrong reviewing body, the review can be forwarded to the IOPC without further consideration.

There are several grounds where the relevant review body would be the IOPC:

- i. **The appropriate authority is a local policing body.**
- ii. **The complaint is about the conduct of a senior officer (above chief superintendent).**
- iii. The appropriate authority is unable to satisfy itself, from the complaint alone, the conduct complained of (if it were proved) would not justify the bringing of criminal or disciplinary

proceedings, or would not involve the infringement of a person's rights under Article 2 or 3 of the European Convention on Human Rights.

- iv. **The complaint has been, or must be, referred to the IOPC.**
- v. **The IOPC is treating the complaint as having been referred (also known as the 'power of initiative').**
- vi. The complaint arises from the same incident as a complaint falling within ii-v.
- vii. Any part of the complaint falls within ii-vi.

The four grounds in bold are definitive grounds. If the local policing body receives a review where one of these grounds apply, the local policing body should forward the review immediately to the IOPC for consideration. It should notify the appropriate authority of the action it has taken.

The remaining grounds require assessment by the appropriate authority. If the local policing body decides the appropriate authority should have applied one or more of these grounds, the local policing body should contact the appropriate authority to discuss and ask it to consider changing its decision. If the appropriate authority maintains the relevant review body should be the local policing body, the local policing body should notify the IOPC so further dialogue can take place.

The IOPC conducts these checks and forwards reviews incorrectly sent to them to the correct local policing body.

## Investigation reviews

Most reviews the local policing body receives will be for complaints handled outside of investigation. This is because if a complaint meets any of the threshold grounds that require it to be investigated, the complaint will also have met one or more grounds which define the relevant review body as the IOPC.

There will be scenarios where an appropriate authority chooses to investigate a complaint despite not being required to do so. For example, if it suggests an ongoing performance issue and a full investigation

report would provide weight to the evidence considered in unsatisfactory performance proceedings. In those instances, the local policing body may still be the relevant review body.

It is important if the local policing body does receive an investigation review, it verifies with the appropriate authority the complaint was not a mandatory investigation but one it chose to investigate. This should be done before it conducts a review.



### CASE STUDY ONE

#### **Incorrect relevant review body — allegation could, if proven, result in misconduct proceedings**

A man complained two police officers refused to investigate a hate crime that had been committed by his neighbour in front of the two officers. The man alleged their refusal to investigate the matter was based on discriminatory views.

The complaint was investigated without special procedures. The appropriate authority wrote to the complainant and notified him the relevant review body was the local policing body. It gave no rationale for this decision. The complainant submitted a review application to the local policing body.

*The relevant review body decision by the appropriate authority was incorrect. The complaint was police had refused to investigate an alleged hate crime and were motivated by discrimination. This allegation, based on the complaint alone, could, if proven, result in misconduct proceedings. The IOPC should be the reviewing body.*



## CASE STUDY TWO

### Incorrect relevant review body — complaint was referred

A man complained, despite being compliant when officers arrested him for theft, officers used excessive force when handcuffing him and moving him to the transport van, leading to a broken wrist. He gave medical evidence to show he was treated for a wrist fracture after leaving custody.

The complaint was referred to the IOPC because of the broken wrist. It was decided the complaint should be subject to a police investigation. Evidence from CCTV and body worn video footage showed the complainant wrestling with his handcuffs and twisting and turning his hands, despite repeated warnings from escorting officers he would hurt himself if he carried on.

At no time did officers twist the handcuffs themselves. The custody log and custody CCTV showed the man did not raise any concerns about his wrists during his time in custody. The complaint handler concluded there was no evidence to indicate the arresting officers were responsible for the broken wrist. The evidence supported the injury had been self-inflicted and the service provided was acceptable. The outcome was provided to the complainant, with a right of review to the local policing body.

*The relevant review body decision by the appropriate authority was incorrect. In addition to the fact that based on the wording of the complaint alone, the allegation could, if proven, result in misconduct proceedings, the complaint had also been referred. As such, the relevant review body was the IOPC.*

## Validity

Once the review body has established it is the correct body, it has a responsibility to check whether the review is valid.

Legislation sets out:

- Who can apply for a review<sup>1</sup>.
- An application for a review must be made within 28 days<sup>2</sup>, starting from the day after the complainant is notified of the outcome<sup>3</sup> in writing<sup>4</sup>.
- What information should be included in a review application<sup>5</sup>.
- Exceptions where a review body may decide to consider an application which does not comply with these requirements.

Further information on the validity criteria is in Chapter 18 of the IOPC's Statutory Guidance.

Where a review application does not have enough information about the complainant or the complaint - but which policing body it relates to can be identified - reasonable steps should be taken with the appropriate authority to identify the case and whether the complainant has received a written outcome.

1 Paragraphs 6(A) and 25, Schedule 3 of the *Police Reform Act 2002*.

2 Regulation 29, *Police (Complaints and Misconduct) Regulations 2020*.

3 Section 20, *Police Reform Act 2002*.

4 Regulation 34, *Police (Complaints and Misconduct) Regulations 2020*.

5 Regulation 29, *Police (Complaints and Misconduct) Regulations 2020*.



### CASE STUDY THREE

#### **Validity – application not complete**

An email was received by the local policing body containing the complainant's reasons for requesting a review and which appropriate authority her complaint related to. It did not include details of the complaint.

The local policing body emailed the complainant to ask for details about the complaint but received no response. A search of their own records found no reference to the complainant. The local policing body emailed the complainant a second time to notify them they did not have enough information to conduct a review and, because they had not replied to their request for information, the application was considered invalid.

*Although the local policing body tried to contact the complainant, they did not make any enquiries with the named appropriate authority that could have helped to identify the case. In this case they failed to take reasonable steps to gather information needed to consider the review.*



### CASE STUDY FOUR

#### **Validity – no right of review exists**

A man complained that officers attending a neighbour dispute kept interrupting him and refused to listen to his account of what happened.

While the complaint handling was ongoing, the complainant received a harassment warning for instigating further arguments with his neighbour. The complainant submitted a review to the local policing body challenging the harassment warning decision.

The local policing body wrote to the man to advise him there was no right of review against the harassment warning, and he needed to contact the police to discuss his concerns about the warning. They further confirmed the handling of his complaint was not complete, and therefore no right of review existed at this time.

*The right of review only exists once the outcome of the complaint has been provided. There is no right of review against the operational decision to issue a harassment warning. The issue of the harassment warning was not part of the man's original complaint – he should be told to raise any concerns about it as a new complaint.*

The relevant review body can extend the period, on a case-by-case basis, for submitting an application for a review where it decides there are special circumstances that make it appropriate to do so.

For example, where the circumstances that meant the review was submitted late were outside of the complainant's control.

## CASE STUDY FIVE

### Out of time – delay acceptable

A woman complained about the police response to a break in. She was dissatisfied with the decision not to search for fingerprints, and felt the concerns she had originally raised had not been properly addressed.

During the course of enquiries, the woman emailed the complaint handler to tell her she was going backpacking for eight weeks and would not be contactable. Two weeks later the complaint handler wrote to the complainant with an outcome to the complaint, together with a right of review and the 28-day deadline.

Eight weeks after the decision was issued, the local policing body received a review application, together with a covering letter from the complainant explaining the reasons for the delay. The local policing body wrote to ask for evidence to support the reasons for the delay. The complainant provided a copy of the email she had originally sent to the complaint handler and a copy of her travel documents. The local policing body wrote to confirm that it would consider the out of time review.

*This was the appropriate way to handle this review application. There was evidence to show the woman had notified the complaint handler she would not be contactable for eight weeks and she had made every reasonable effort to submit her review shortly after returning from her travels.*



## CASE STUDY SIX

### Out of time — special circumstances

A man complained the police operation at a local football match was excessive and he felt pre-judged as a football fan that he was a thug.

The complaints were dealt with otherwise than by investigation, and a right of review provided. The complainant submitted a review application a week outside the 28-day deadline.

Throughout this time, there had been various articles in the media about excessive policing and profiling at football matches. This had generated significant public interest in the topic. The appropriate authority had handled a number of reviews about the policing tactics used at football matches, and the local policing body decided even though the review had been submitted out of time, it was appropriate to consider it because of the thematic concerns raised.

*It could be argued the complainant had not taken reasonable steps to submit his review application in a timely manner. However, the thematic nature of the complaint and the high volume of concerns of operational policing tactics meant it was in the public interest to consider the out of time review.*

### Suspended/halted enquiries

The right of review is against the entire complaint and therefore does not apply until the whole of the complaint has been addressed and an outcome provided. Any review received before the complaint handling is concluded is invalid.

There will, however, be occasions where some of the actions needed to resolve part of a complaint are suspended. This may be because the appropriate authority believes to continue looking at those particular allegations would prejudice criminal investigations or proceedings. There may also be instances where certain aspects of a complaint cannot be addressed because the officer involved is on long-term leave.

In these instances, and with the complainant's agreement, the appropriate authority can split and record the allegations into separate complaints. It can then progress the complaint that can be addressed quickly and hold the complaint that cannot be progressed.

Therefore, in reviews where it appears some of the original complaint has not been addressed, the local policing body must contact the appropriate authority. It should check whether this is because the complaint has been split and those other allegations now form a separate complaint, in its own right. It can then assess whether it can consider the review that has been submitted.

## CASE STUDY SEVEN

### Suspended complaint handling – complaint split

A man complained about police searching his home. He said officers left muddy footprints, were clumsy when conducting the search - resulting in a broken lamp - and failed to consider evidence the drugs in his home belonged to his flat mate. The complainant said he was being prosecuted for possessing drugs that were never his in the first place.

The enquiries into the allegation police failed to consider evidence were suspended on the basis any handling of that allegation could prejudice the criminal proceedings being pursued against the complainant. However, allegations about the footprints and lamp were, with the agreement of the complainant, recorded as a separate complaint, handled separately and an outcome given to the complainant. The complainant submitted a review application. The local policing body contacted the appropriate authority to check whether the allegation concerning the failure to consider evidence had been split out as a separate complaint. The appropriate authority confirmed it had been and the IOPC would be the relevant review body for that complaint. The local policing body considered the right of review against the complaints that had been addressed.

*This was appropriate. The local policing body checked the complaint had been split and recorded separately as two complaints, and the application to review the outcome of the house search allegations was valid.*

## Conducting the review

The local policing body, in its role as the review body, is responsible for making decisions on whether the outcome of a complaint is reasonable and proportionate.

Reviews should only be upheld if the outcome of the complaint is unreasonable and disproportionate. If the outcome of the complaint is not the one the reviewer considers it should have been, but is still a reasonable and proportionate one, the review should not be upheld. However, observations about what may have been a better outcome should be shared with the appropriate authority.

The review should be upheld if the handling of a complaint is legally flawed in a way that

could affect the outcome. If, however, the local policing body finds the same outcome would inevitably have been reached even without those flaws, the review should not be upheld. Any irregularities the local policing body has identified should be flagged with the appropriate authority.

To decide whether the outcome was reasonable and proportionate, the local policing body must consider any representations provided as part of the complaint handling and/or review. This should be considered alongside any evidence collated throughout the handling of the complaint and with consideration to the following aspects of complaint handling.

## Have all complaints been addressed?

It is important the complaint handler understands and addresses all the complaints raised as further allegations are often made during the course of complaint handling.

The local policing body will need to check the original complaint correspondence, the details of what was recorded on the police database, any terms of reference (if an investigation), and the communication

throughout the complaints handling to make sure everything has been covered.

Any new complaints raised in the review correspondence cannot be considered as part of that review. They must be forwarded to the initial handlers for logging.

### CASE STUDY EIGHT

#### Recorded complaints missed

The police were called to an argument at a wedding. They arrested a man for breach of the peace and assault. The case was later dropped with no charges. The man complained he was unnecessarily arrested, the arrest was racially motivated, and officers had not spoken to witnesses who would have told them he was not the instigator.

Enquiries were made and it was found witnesses had not been spoken to. The complainant was given the outcome of the investigation in a report, together with a right of review.

*The investigator failed to address both the complaint concerning his arrest and the discrimination aspect of his complaint. The complainant was not contacted to further discuss, understand why he felt discriminated against, and what actions, behaviour or words made him feel like this.*

*The investigator failed to secure any evidence about this part of the complaint, and it was not mentioned within the investigation report. Furthermore, the investigator also failed to assess whether the investigation should be subject to special procedures. The complaint, in its entirety, should have the IOPC as the relevant review body, and not the local policing body.*

## Were the enquiries reasonable and proportionate?

### No further action

The primary objective of any action to address a complaint should aim to remedy the complainant's dissatisfaction, wherever possible. Taking no further action can be a legitimate outcome of a complaint. However, the local policing body must be satisfied there were no reasonable lines of enquiry that

could have been pursued. Focus issue [‘Reasonable and proportionate handling under Schedule 3 otherwise than by investigation’](#) provides further detail about when and why it may be appropriate to take no further action.

## CASE STUDY NINE

### No further action – outcome reasonable and proportionate

A woman complained an officer was rude to her when her vehicle was stopped by police. This was part of the vehicle checks police were conducting in the area.

The complaint was recorded. Before making initial contact with the complainant, the complaint handler secured and reviewed the body worn video footage from the officer complained about. The footage showed the officer was not rude but had been stern because she was shouting at him for being inconvenienced. The complaint handler contacted the complainant to tell her this is what the footage reflected. They provided the outcome in writing with a right of review.

The complainant applied to have the complaint outcome reviewed and it was not upheld. The complainant remained dissatisfied and submitted a further complaint, which was recorded. However, no further action was taken. The complainant was notified the reason was because the complaint had previously been recorded and addressed, she was not raising any new complaints, and she previously submitted a review which was not upheld.

The local policing body considered what information had previously been provided to the complainant and reviewed the footage. The local policing body found the outcome, to take no further action, was reasonable and proportionate because of the information already given to the complainant.

*This was appropriate. While showing the footage may have given a more customer-focused outcome to the complainant, explaining why the officer's conversation with her was not considered unacceptable, it does not affect the outcome. However, the local policing body may have wanted to flag to the appropriate authority this was not the best customer service and give advice about how such matters could be handled in the future.*

## Inadequate enquiries

It may become apparent the complaint was not handled in a way the local policing body expected. However, this does not necessarily mean the outcome of the complaint was not reasonable and proportionate.

For instance, there will be occasions where a decision has been taken not to follow certain enquiries. The complaint handler should explain this in the outcome correspondence.

If it is not apparent why potential lines of enquiry were not followed, the local policing body should explore this with the complaint handler before deciding whether the outcome of the complaint was reasonable and proportionate.

The local policing body should consider the factors in Chapter 10 of the Statutory Guidance when weighing up whether a particular enquiry should have happened.

## CASE STUDY TEN

### Inadequate enquiries – complainant not contacted

A woman complained a custody detention officer had been dismissive of her dietary requests while in custody. She said the detention officer asked her, just after she was booked in, whether she wanted a cup of tea. The complainant said she replied and asked whether they had Earl Grey. The complainant said the detention officer cut her off saying “what do you think we are a five-star hotel, no we don’t you’ll get what’s served”.

The complaint was recorded, and the CCTV footage looked at. It showed a conversation was held but there was no audio. The complaint handler wrote to the complainant with the outcome the service was acceptable.

The complainant submitted a review application to the local policing body. She said no initial contact had been made so she had not been able to explain there had been witnesses who might have been able to recall the conversation. The local policing body was concerned the complaint had been dismissed because of its relatively minor nature, and the complainant had not been contacted rendering the complaint handling legally flawed.

*The local policing body could not be satisfied the outcome would inevitably have been the same. The complaint was returned to the appropriate authority for further handling.*



## CASE STUDY ELEVEN

### Insufficient evidence to support the outcomes

A woman complained police over-reacted when she was arrested to prevent a further breach of peace at a protest she attended. The complainant said the two officers who had approached her were confrontational, gesticulating aggressively, and their behaviour led to her becoming animated and frustrated. The complainant said her fellow protestor had mobile phone footage of the incident that could prove the officers' behaviour was unacceptable, and they had over-reacted.

The complaint handler reviewed the officers' duty statements and an account provided by the complainant. The protest had happened in an area with CCTV, so the complaint handler seized and reviewed the footage of the protest.

The footage partially captured the officers and the complainant. However, it was not clear, from the angle recorded, what the officers' body language was or what interaction they had with the complainant. This was because they had their backs to the camera.

The officers denied the allegation and the complaint handler concluded the service was acceptable. A right of review was given to the complainant.

The complainant submitted a review application reiterating there was footage to show the officers' behaviour was unacceptable. During the review, the complaint handler explained he had not secured the mobile phone footage or taken a witness account from the protestor.

The local policing body found the outcome of the complaint was not reasonable or proportionate, and upheld the review. This was because there was insufficient evidence to support the conclusions drawn, and further enquiries were necessary to find out what the mobile phone footage depicted.

*This was a reasonable decision to make. The CCTV footage was inconclusive, and the complaint handler had made no attempt to verify the officers' accounts given on their duty statements. The mobile phone footage had already been offered, would not have been resource intensive to try and obtain, and had the potential to clarify what had happened.*



## CASE STUDY TWELVE

### **Enquiries were missed yet outcome reached was reasonable and proportionate**

A woman complained a 999 call taker was rude to her when she reported a fight taking place outside of the restaurant she was in. She said the call taker kept interrupting her.

The complaint was recorded, and the complaint handler listened to the recording. They decided the service received was acceptable because the interruptions made by the call taker happened when she was trying to get more information about what was happening and the exact location of the fight.

The outcome was given to the complainant and she submitted a right of review application to the local policing body. The local policing body considered the evidence and the complainant's view that she had wanted an account to be taken from the call taker. It decided not to uphold the review because listening to the call identified that, while the call taker did interrupt the complainant, the interruptions were clearly because time was important and intelligence was being sought in potentially urgent circumstances.

*While it may have been helpful to have asked the call taker for an account and to reflect back on how she came across to the complainant, the same outcome would have inevitably been reached. It is therefore appropriate the review was not upheld and instead, suggestions about how it could have been improved on fed back through oversight channels.*

## Unnecessary enquiries

There will be instances where the local policing body considers a more concise approach would have still resulted in the same reasonable and proportionate outcome. Although not a reason for upholding the review, the new complaint system simplifies the complaints process to remedy dissatisfaction

in a meaningful but timely manner. If the local policing body can identify ways a complaint can be addressed more efficiently, but not to the detriment of the outcome of the complaint, then this should be shared with the appropriate authority.

### CASE STUDY THIRTEEN

#### Enquiries were unnecessary and could have been streamlined

A woman complained she was not told why she had been arrested and taken into custody.

The complaint handler viewed the body worn video (BWV) footage of the arresting officer and custody CCTV. The BWV footage showed police had been called to an incident in a pub. After initial enquiries and identification by the landlord, the woman was told she was being arrested to prevent a breach of the peace.

The custody CCTV showed when she was brought in to custody, she was told the reason for her arrest and detention again. The complaint handler obtained a copy of the custody log and took statements from the officers that were present at the time of the arrest, as well as the custody sergeant. The findings were sent to the woman in writing.

*The answer to this complaint was clear after the review of the BWV and CCTV footage. It was not necessary to conduct further enquiries and to do so was disproportionate to all involved. The complaint handler could have shown the complainant the footage to demonstrate she had been given her rights. This could have been summarised in an outcome letter to the complainant with a right of review.*

## Is there an audit trail?

As stated in Chapter 11 of the Statutory Guidance, regardless of how the complaint is handled, it is important any enquiries made can be evidenced, or a rationale not to pursue an enquiry or piece of evidence documented.

Verbal accounts are often an appropriate and proportionate way of collecting evidence, but should be documented and sent to the individual to confirm the accuracy and provide an audit trail.

The local policing body should expect to see evidence that has been collated, even if the

complaint handler/investigator has not given it any weight in support of either the complainant or police employee/s accounts. This is so it can decide whether the decision not to give the evidence weight is appropriate.

Sometimes part of the audit trail to support one or more of the enquiries is not available. If those enquiries did not contribute any evidence towards the decision made on the complaint, and therefore have not affected the outcome being reasonable and proportionate, then it may be raised through oversight channels rather than upholding a review.

## Decisions, outcomes and actions

The local policing body should judge whether the outcome by the appropriate authority is reasonable and proportionate based on the seriousness of the complaint, any actual or potential impact or harm caused, the circumstances which led to the complaint being made, and whether there is potential learning. Further guidance on deciding how a complaint should be handled is provided in Chapter 10 of the Statutory Guidance.

Focus issues 'Reasonable and proportionate outcomes' and 'Reasonable and proportionate handling under Schedule 3 otherwise than by investigation' provide various examples on reasonable and proportionate outcomes. This includes avoiding inconclusive outcomes, how to decide if the service was acceptable or not, and when outcomes such as mediation, apologies, gestures of goodwill, learning, policy reviews and no further action may be appropriate.

### Are the decisions and outcomes clear?

The decisions made about, and the outcomes resulting from, the complaint should be clear and easy to understand, and free from jargon. They should be written so anyone could review the correspondence and understand it.

The information should explain what complaints have been recorded and addressed, what enquiries have taken place, what evidence has been collated, how the evidence has been weighed, whether any relevant guidance has been considered, if applicable, and there is a clear, logical reason for the decisions reached.

If the information in the final decision is lacking in any of the above but the outcome of the complaint was a reasonable and proportionate one and can be understood, the local policing body should consider providing the missing information. It can raise this as an oversight issue to the appropriate authority.

Please see Chapter 18 in the Statutory Guidance for further advice on information provided to the complainant.

**The decisions available once a complaint has been addressed depend on how the complaint has been handled:**

Decisions	Other than by investigation	Non-special procedures	Special procedures
Service provided was acceptable	<input type="radio"/>	<input type="radio"/>	
Service provided was not acceptable	<input type="radio"/>	<input type="radio"/>	
Not able to determine	<input type="radio"/>	<input type="radio"/>	
No further action	<input type="radio"/>		
Withdrawn	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Regulation 41		<input type="radio"/>	<input type="radio"/>
Case to answer			<input type="radio"/>
No case to answer			<input type="radio"/>

## Has appropriate learning been identified?

Part of considering whether the outcome was reasonable and proportionate, is whether any organisational or individual learning has been identified. If not, should there have been?

This is particularly important where it is decided the service was not acceptable. However, learning can also result from complaints where the finding or service level was acceptable.

Please see Chapter 4 in the Statutory Guidance for further information about learning from complaints.

## Should further action be taken to remedy the complaint?

If the local policing body is not satisfied the outcomes are reasonable and proportionate, it can make various recommendations dependant on how the complaint was handled. This includes how the dissatisfaction expressed by a complainant can be remedied to make sure the substance of the complainant's concerns are fully addressed<sup>6</sup>.

However, local policing bodies are encouraged to talk with the appropriate authority before recommending a remedy<sup>7</sup>. It must have regard to the principles of reasonable and proportionate handling set out in Chapter 3 of the Statutory Guidance when making this decision.

### CASE STUDY FOURTEEN

#### Review decision – recommend a review of whether property seized can be returned

A woman complained she was unhappy with the length of time she was in custody, and the police still had her mobile phone and tablet.

The complaint was recorded, and enquiries included reviewing the custody log, the custody CCTV footage, the enquiry log, and the property seized log. The complaint handler considered all of the evidence. They decided the time she was detained and the reasons for seizing the mobile phone and tablet were reasonable and the service was acceptable.

The complaint handler wrote to the complainant with her findings, and gave a right of review to the local policing body. A review application was submitted. The local policing body upheld the review but only about her complaint about her property.

Although enquiries addressed the reasons for the period the complainant was in custody and why the mobile phone and tablet were seized, there was no consideration about whether the property still needed retaining or whether it could be returned. The local policing body recommended to remedy the matter the police should consider whether continued retention of the property was necessary, and if so provide the complainant with its decision and explanation. If the property no longer needed retaining, the police should check the owner of the property before returning it.

*While both complaints have been considered, the outcome was not reasonable and proportionate. This was because it did not answer if and when the complainant could expect her property to be returned. The decision to recommend a remedy was reasonable and proportionate as it was made to address the heart of the complainant's concern about the ongoing retention of her mobile phone and tablet.*

<sup>6</sup> Paragraph 28ZA, Schedule 3, *Police Reform Act 2002*

<sup>7</sup> The proposals for remedying dissatisfaction are outlined in Chapter 17 of the Statutory Guidance.



## CASE STUDY FIFTEEN

### Review decision – recommend an apology to remedy the situation

A woman complained police had broken her front door when they were searching for a man in her block of flats. She said the police told her they knocked on her door but forced entry because they had no response and could hear someone in her flat. They suspected it could be the man they were looking for.

The woman explained she only had partial hearing and had not heard them. The woman said she was frightened and shocked when they appeared in her kitchen, and she was not happy claiming on her insurance policy to get the door fixed.

The complaint handler recorded the complaint. From initial enquiries, they were able to explain to the complainant officers had accepted they had broken down the wrong door. The complainant was not satisfied with the outcome and applied for a review.

The local policing body upheld the review on the basis the outcome did not remedy the dissatisfaction. This was because it did not sufficiently explain how the error occurred (although this was clear in the papers provided to the local policing body) or acknowledge how it had left the complainant feeling.

The recommendation was police apologise for the error, explain how the error occurred, and consider reviewing their policy on reimbursing members of the public in circumstances where the police have entered the wrong premises by mistake and caused damage.

*The decision to uphold the review is reasonable. Despite providing an outcome to the complaint, it was not reasonable or proportionate because it did not explain how the error had occurred. There was no recognition of what impact the incident had on the complainant. An apology and further explanation were a reasonable and proportionate way in which to address the dissatisfaction.*



## CASE STUDY SIXTEEN

### Review decision – recommend review information held

A man complained about how officers dealt with him after reporting an incident of domestic abuse. Despite the decision to prosecute his ex-partner, he felt the handling of his case could have been more thorough, leaving him feeling vulnerable.

The complaint handler initially obtained the incident log and the body worn video (BWV) footage of the officers who attended the complainant's address. They decided the level of service he received was acceptable.

The BWV footage showed the officers were professional yet sympathetic to his circumstances, and records showed appropriate lines of enquiry had been completed. The complaint handler decided the level of service was acceptable and gave the complainant the outcome with a right of review.

The relevant review body considered the evidence and decided the review should be upheld because the enquiries failed to consider what steps had been taken, if any, once the decision had been made to prosecute the ex-partner.

The incident log recorded a risk assessment had been made. However, it appeared nothing had been put in place to support the complainant once the decision to prosecute had been made. The review body recommended the police should review the information about the complainant's home address and ex-partner and consider whether it would be beneficial to add warning markers. They also recommended the complainant be signposted to the domestic abuse advocacy service for support.

*The initial criminal investigation into the domestic abuse was appropriate. However, the heart of the complaint was the complainant was feeling vulnerable. Further actions were appropriate to reasonably and proportionately address the complainant's dissatisfaction.*

## Oversight

Although the IOPC is the oversight body for police complaints in England and Wales, the local policing body has local oversight responsibility. It is therefore essential we continue to work collaboratively to drive up standards in police complaints handling.

Instrumental in building on the operational relationship between both oversight bodies, the local policing body should make sure it is recording data about the recommendations and feedback provided to forces. It should monitor the responses it receives from appropriate authorities as part of the review process. See section 9 of the 'Guidance on capturing data about police complaints' for more information about what review data should be logged.

The local policing bodies will, during the course of the review process, spot anomalies that do not change the outcome being reasonable and proportionate, but where the service in handling the complaint can be improved.

The review process provides local policing bodies with the opportunity to address those anomalies, in individual cases, with the appropriate authorities. Sharing this information with the IOPC will allow it, as a mutual oversight body, to assess whether there are themes and trends across the reviews we both see, and whether we need to take specific action to address complaint handling concerns. For example, a pattern of cases where the outcomes were reasonable and proportionate but where the customer service was unsatisfactory.

This also enables both oversight bodies to share good practice between themselves and with appropriate authorities that help resolve a complainant's dissatisfaction in a reasonable and proportionate manner.

Anomalies may include but are not limited to:

### > **Background papers**

The review process relies on the appropriate authority providing the background papers (evidence) it has considered during the complaint handling to the local policing body. It is therefore inevitable the local policing body may come across some issues with the background papers that do not affect the review decision, but have impacted on the review process at some point.

These are mainly where there has been significant delays in receiving the papers, the format the papers have been received which are incompatible with the systems used by the reviewing body, and incomplete background papers provided where the local policing body has made several attempts to secure the missing information.

### > **Right of review**

The local policing body should expect to see in the outcome letter to the complainant, that the complainant has a right of review, who the reviewing body is, and the timeline in which the review application must be submitted by the complainant.

If any of this information is missing from the outcome letter, despite the review being received, it is important it is fed back to the appropriate authority so it can make sure its correspondence templates comply with legal obligations.

### > **Regular updates on complaint handling**

Chapter 11 of the Statutory Guidance explains there is a legislative duty<sup>8</sup> on appropriate authorities to provide regular, meaningful updates to complainants about the ongoing handling of their recorded complaint. These should be provided within four weeks of the start of the handling of the complaint, and thereafter every four weeks from the previous notification until the outcome is provided.

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<sup>8</sup> Regulation 34, *Police (Complaints and Misconduct) Regulations 2020*.

### > **Quality of outcome reports and letters to complainants**

While the reasonable and proportionate outcome may be easy to understand, it is important, as an oversight body, feedback is still provided where the wrong wording has been used or where more care could have been taken with the language used. For example, where the outcome letter makes reference to the case to answer test, but where it was clearly dealt with otherwise than by investigation, and the decision is the service was acceptable.

### > **No initial engagement with the complainant**

It is recognised not all complainants want to engage with the police after making a complaint. However, the local policing body should expect to see evidence to reflect attempts have been made. Early engagement is vital in acknowledging and understanding the complainant's concerns, and resolving the complainant's dissatisfaction. It also gives the complaint handler the opportunity to summarise the complaints and seek confirmation from the complainant so all parties are clear on what is being addressed – see Chapter 6 of the Statutory Guidance for further information.

### > **Preferred method of communication**

Initially contacting the complainant in the same way they have made their complaint can unconsciously help build rapport and strengthen the trust between complainant and complaint handler. However, it is important to establish, once initial contact has been made, what the complainant's preferred method of contact is.

No assumptions should be made by the complaint handler. It is likely the complaint handler will not be aware of any reasonable adjustments that might be necessary, what impact the incident being complained about has had on the complainant, and the complainant's current circumstances.

The local policing body should expect, in the review, to see initial contact was made in the same way the complainant made their complaint, unless the complainant had already stipulated otherwise, or where requested adjustments cannot be reasonably accommodated.

### > **Originally dealt with outside of Schedule 3**

Although the right of review provides the complainant with independent oversight, the local policing body should always consider, as part of the review process, whether the complaint they originally made was initially dealt with outside of Schedule 3. If so, was it appropriate to handle it in such a way?

As a right of review only exists for complaints recorded under Schedule 3 of the *Police Reform Act 2002*, it is extremely important the local policing body monitor, through the review process, the number and types of complaints initially handled outside of Schedule 3 before being recorded. Therefore, it can also identify any patterns of concern.

## Get in touch

This guidance was published by the Independent Office of Police Conduct (IOPC) in April 2020, and was correct at the time of publication. Contact the IOPC for further advice, or if you need a copy of this issue in another language or format.



030 0020 0096



[enquiries@policeconduct.gov.uk](mailto:enquiries@policeconduct.gov.uk)



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