

# 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 (DSI) cases. It supports them to handle complaints appropriately and improves standards. This issue focuses on handling DSI reports within the *Police Reform Act 2002*.

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## Local death or serious injury (DSI) report

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## Death or serious injury – definition

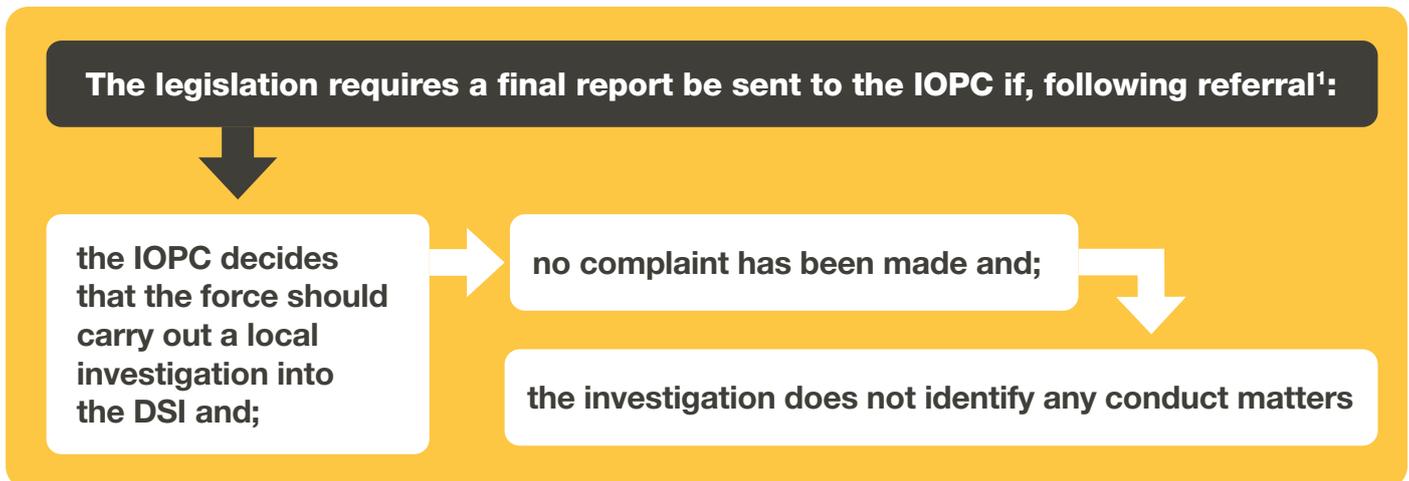
The definition of a death or serious injury (DSI) is set out in **chapter 7 of the IOPC Statutory Guidance**. For information on the types of cases that fall into the DSI category and how to establish a causal link, please refer to **Focus issue nine – referrals**.

There is a mandatory requirement for forces to refer an incident where someone has died or been seriously injured while interacting with the police (this includes both police action and inaction). A DSI referral to the IOPC does not

necessarily mean that anything has gone wrong or that anyone is unhappy with how the situation was handled.

DSI referrals fulfil a different part of the legislation regime to the referral of complaints and conduct matters. DSI incidents must be reviewed by an independent body to the state to decide whether the matter needs further examination. After receiving a referral, the IOPC makes this assessment.

### When do forces have to send a DSI investigation report to the IOPC?



Where possible, when deciding that the force should investigate a DSI referral, the IOPC will remind the force that it is required to submit a DSI report at the end of the investigation.

If the IOPC decides that no investigation is required into a referred DSI matter and refers the matter back to the force to handle as they see fit, then the force is not required to send a DSI report to the IOPC at the conclusion of any subsequent handling. However, if the appropriate authority decides to investigate after a case has been referred back to them by the IOPC, they will need to submit a DSI report to the IOPC when their investigation is complete.

If a complaint is received during a local DSI investigation, or the investigation identifies a conduct matter, then there is no requirement to send the final report to the IOPC<sup>2</sup>. However, if the complaint or conduct matter covers different issues to the DSI investigation, then the force is required to complete the DSI investigation and submit a report to the IOPC. If an officer's behaviour is identified during the course of a DSI investigation that does not constitute a conduct matter<sup>3</sup>, then this is also addressed separately and a full DSI investigation report will need to be completed and sent to the IOPC.

<sup>1</sup> Paragraph 24A, Schedule 3, *Police Reform Act 2002*.

<sup>2</sup> If a conduct matter is identified during a DSI investigation, it must be referred to the IOPC for us to consider the mode of investigation. Any referral should set out the conduct being referred so we are clear about what has been identified.

<sup>3</sup> Regulation 1, *Police (Conduct) Regulations 2020*.



## CASE STUDY ONE

### Family complain to police after missing man found dead

A man with a history of depression was reported missing by his family. His family members said he had not given any indication he would self-harm, but a family argument a couple of weeks previously had upset him. Police officers searched for him and he was found dead in the local canal three days later.

After receiving a DSI referral, the IOPC determined that the force should carry out a local investigation to examine the police actions in response to the missing person report.

#### Scenario A

The family made a complaint to the force after the man's death. They were not happy with the actions the police took to find him when they reported him missing. They believed that if the police had been more proactive, he would have been found.

*The complaint the family made covered the same matters as the DSI investigation. This meant that the force was required to refer the complaint to the IOPC<sup>4</sup>. If the IOPC returned the complaint back to the force to address, the family would have a right of review at the end of the investigation and the force would not be required to send the final report to the IOPC.*

#### Scenario B

The officer investigating the police actions in response to the missing person report met the man's family. Family members did not raise any concerns about the actions the police had taken to find him. However, they were unhappy about the way they were told that he had been found dead. They felt it had been clumsy and the officers had been insensitive to their loss. They said one officer had implied that people with depression waste police resources.

*The complaint does not cover the same issues as the DSI investigation and the force will therefore need to address it separately. The force will be required to submit the DSI report to the IOPC.*

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<sup>4</sup> Paragraph 4, Schedule 3, *Police Reform Act 2002*.



## CASE STUDY TWO

### Man complains that his arm was broken during arrest

A man was arrested for theft and to prevent a breach of the peace after arguing with shop staff. Officers took him to a custody suite. He told the custody staff that his arm had been hurt while officers restrained him. He was taken to hospital where it was confirmed his arm was broken.

After receiving a DSI referral, the IOPC determined that the force should carry out a local investigation to examine the police actions during the man's arrest.

#### Scenario A

The investigating officer met with the injured man, who wanted to complain about the use of force during his arrest.

*The complaint covered the same matters as the DSI investigation and so converts into a complaint investigation that must be re-referred to the IOPC<sup>5</sup>. If the IOPC returned the complaint back to the force to address, the man would have a right of review at the end of the investigation and the force would not be required to send the final report to the IOPC.*

#### Scenario B

The injured man did not want to complain about the broken arm, but he did raise concerns about how well he had been looked after while in custody. He said that he was not provided with enough refreshments and had been refused a fan on one of the hottest days of the year. He also said that the custody sergeant had been unsympathetic, sarcastic and rude to him.

*The complaint does not cover the same issues as the DSI investigation and the force will therefore need to address it separately. The force will be required to submit the DSI report to the IOPC.*

### Death or serious injury becoming conduct matters

If at any point during an investigation involving a DSI the investigator finds that there is an indication that a person serving with the police or a contractor may have behaved in a manner which would justify disciplinary proceedings, or may have committed a criminal offence, the investigator must make a submission to the appropriate authority to that effect.

The IOPC must also be notified and provided with a copy of the submission<sup>6</sup>. This can be combined with the conduct matter being referred to the IOPC to consider the appropriate mode of investigation.

<sup>5</sup> Paragraph 4, Schedule 3, *Police Reform Act 2002*.

<sup>6</sup> Paragraph 21A (3) and (4) of Schedule 3 to the *Police Reform Act 2002* and Regulation 71 of The Independent Police Complaints Commission (Complaints and Misconduct) (Contractors) Regulations 2015. See also sections 13.13 to 13.19 of our Statutory Guidance.



## CASE STUDY THREE

### **Investigation following serious injury identifies potential conduct matter for officer pursuing stolen car**

Two police cars were pursuing a stolen car. The officers were all advanced driver trained and had received authority to pursue. The stolen car mounted the pavement and struck a pedestrian breaking his leg badly. The in-car CCTV/dashcam was not working. The force made a DSI referral to the IOPC and the case was returned for local investigation.

The investigator obtained CCTV footage from local houses that captured the pursuit. The footage showed that one police driver had tried to box in the stolen car with a stationary car immediately before the driver mounted the pavement. The police officer who was a passenger travelling in the police car provided an account and explained that he had repeatedly told his colleague to call off the pursuit when they entered a built-up area. The police driver refused to stop and continued the pursuit and the manoeuvre to box the car in.

*The investigating officer identified a conduct matter for the driver of the police car as there is an indication that they may have behaved in a manner which would justify the bringing of disciplinary proceedings. This meant that the force was required to record the conduct matter and refer it to the IOPC<sup>7</sup>. The force would not be required to send the final report to the IOPC.*

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<sup>7</sup> See sections 13.13 to 13.19 of our Statutory Guidance.



## CASE STUDY FOUR

### Evidence indicates potential conduct matter following concerns about man's reaction to drugs

Officers responded to a call from concerned flatmates who reported that their friend was behaving strangely after returning home from a night out. They suspected he might be having an adverse reaction to drugs. He had gone into their rooms, taken their things and piled them up in his room and was refusing to give them back. They wanted police to come and remove the man from the flat and get their possessions back.

When the police arrived, the man had returned his flatmates' property and was calmer, apologising to his flatmates for his behaviour. Shortly after the officers left, the man jumped from his bedroom window, breaking his back.

The force made a DSI referral to the IOPC and the case was returned for local investigation.

Body-worn video showed the officers entering the man's bedroom. He was visibly unwell, sweating profusely and muttering incoherently to himself. He did not respond to the officers when they spoke to him. The officers did not explore whether he was having a medical emergency and did not call an ambulance. The footage also showed what looked like drug paraphernalia in the man's bedroom. Officers checked that the stolen property had been returned and then left.

*The investigating officer looked at the actions surrounding the man's injury. They identified a recordable conduct matter because there was an indication that the officers may have behaved in a manner which would justify the bringing of disciplinary proceedings in not getting the man medical attention.*

*The force referred the recordable conduct matter to the IOPC for a decision about the mode of investigation of the conduct matter<sup>8</sup>. As the conduct involved the same issues as the DSI investigation, the investigation transformed into a conduct investigation and there was no need to send a final report to the IOPC.*

<sup>8</sup> See sections 13.13 to 13.19 of our Statutory Guidance.

## Keeping interested parties informed during a DSI investigation

During a DSI investigation, the *Police Reform Act 2002* places a duty on investigators to keep interested parties<sup>9</sup> updated. The force should identify the interested parties. If contact details were provided with the referral, the IOPC will inform interested parties about what decision has been made on the referral. There is an obligation to keep the relatives of someone who has died updated throughout the investigation. Similarly, someone who has suffered a serious injury must also be updated throughout the subsequent investigation. Updates should be meaningful and represent a genuine attempt to keep parties informed. A standard letter stating that an investigation is ongoing is not a meaningful update.

Approaching interested parties when there has been a death should be done with sensitivity after full consideration of all the circumstances. Where appropriate, forces should notify interested parties that they have made a referral to the IOPC. This will avoid any distress or confusion when they are contacted by the IOPC with information about the referral decision.

## Content of DSI investigation reports

These investigations are an opportunity for forces to review the circumstances of their contact with a person prior to their death or serious injury. It is a chance to establish what happened and answer questions for an injured person, interested person or family members.

The primary focus of a DSI investigation is on identifying individual, local or organisational learning, not on apportioning blame. It is a chance to look for genuine and practical opportunities to improve operational policing. When forces identify learning or other supplementary matters – for example, training records not being up to date – the IOPC expects the force to document these and act upon them. This may include escalating or making other departments aware of the matters.

Communication can be initiated through a family liaison officer or recognised third-party support. If the referral decision needs to be communicated using these channels, the IOPC must be told at the referral stage.

Updates should be provided at least every 28 days<sup>10</sup> but the method and frequency of the contact should be discussed and agreed between the investigator and the interested person. If an investigation is progressing quickly, then updates may need to be more frequent.

As well as providing updates to interested parties, forces are required to provide information about their provisional findings. They must also share the actions (if any) they are taking and the outcomes of those actions<sup>11</sup>.

When drafting reports following DSI investigations, investigating officers should be aware that they may need to share the report with relatives of the interested parties. Care should be taken when writing the report. Subject to the appropriate harm tests, redactions should be made where necessary.

The level of detail required in a DSI report will depend upon the seriousness of the incident and the information needed to explain what happened. A DSI investigation report should be written to the same standard as any complaint or conduct investigation report.

The report should:

- set out what evidence is available about the nature and extent of police contact prior to the DSI
- refer to any relevant documents and policies
- be objective, with appropriate analysis of the evidence that will address any inconsistencies

9 Updates can only be shared with Interested parties if they have consented to receiving information.

10 Sections 20 and 21, *Police Reform Act 2002* and Regulation 33, Police (Complaints and Misconduct) Regulations 2020.

11 Regulation 34, The Police (Complaints and Misconduct) Regulations 2020.

- contain enough detail to explain what happened
- set out any learning and an explanation of how the force intends to respond to it

The report is also required to formally conclude whether there is sufficient evidence to indicate that a person serving with the police may have committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings.

Avoid jargon and acronyms where possible. If they must be used, the report should explain what they mean clearly so that the next of kin or injured person can understand the report.

If in response to a referral the IOPC suggested lines of enquiry that the DSI investigation might

pursue and the investigation decided not to follow these, the rationale for this should be included in the report provided to the IOPC.

### **Using a report intended for another purpose**

Following a DSI, reports may need to be written to fulfil other statutory obligations – for example, a coroner’s report for the inquest. Although duplicating work should be minimised wherever possible, DSI investigation reports must meet specific requirements. If the intention is to complete one report for all audiences/recipients (the family, the coroner, the IOPC, etc), consider using specific sections that match the individual requirements of each audience which can then be removed or included, as appropriate.

## **CASE STUDY FIVE**

### **Using a coroner’s report as a DSI report**

A man was arrested and bailed for sexual offences. In custody, he disclosed having experienced a mental breakdown 18 months before and attempting to take his own life. He stated that he had not experienced feelings of self-harm recently and was in touch with the local mental health team when required, but was not seeing them regularly.

Several days after he was released on bail, he was found dead in his shed.

The investigating officer conducting the DSI investigation drafted a report for submission to the coroner. The report covered the background to the man’s arrest, the circumstances of his death, details about the scene, his medical and social history, and a brief section about his previous contact with the police. The investigating officer submitted this report to the IOPC because he believed it was clear that there was no fault on the part of the police.

*The Police Reform Act 2002 requires an assessment and formal conclusions to be made about whether a person serving with the police has committed a criminal offence. It also requires an assessment of whether there is an indication that an officer behaved in a manner which would justify the bringing of disciplinary proceedings. In the scenario above, the DSI report must cover the nature and extent of the police contact with the man during his time in police custody. It must also include details from the custody log, CCTV footage and information from the custody officer about their interaction with the man. It would not necessarily need to include his medical and social history.*

## Serious Case Reviews<sup>12</sup> and Domestic Homicide Reviews<sup>13</sup> (SCRs/DHRs)

The purpose of SCRs and DHRs is to review the multi-agency approach to an incident and can involve examining other agencies, such as the NHS and social services. These reviews may

provide information that informs a DSI report, but they will not necessarily replace the need for a separate final report that complies with the requirements of the *Police Reform Act 2002*.

### Sending the report to the appropriate authority and the IOPC

When a DSI investigation report is complete, it is a legislative requirement to send it at the same time to the IOPC and the appropriate authority<sup>14</sup>.

Where a DSI investigation involves more than one police force, a report should be submitted to

each respective appropriate authority. This must happen even if the DSI investigation has been delegated to one force to carry out on behalf of all of the forces. No determinations should be completed by the appropriate authority until the IOPC has made its determinations on the report.

### IOPC assessments of the DSI report

Copies of the evidence relied upon in the DSI report should be provided in the background papers sent to the IOPC to assist with our review. The IOPC can, where appropriate, request to see further material to assist in conducting that review. This may include requests for custody records, incident logs, digital media and accounts from relevant officers and witnesses.

The IOPC's actions when we receive a DSI investigation report are set out in [section 17.40-17.43 of our Statutory Guidance](#).

The IOPC must review the force's assessment of whether any officer:

- may have committed a criminal offence, or
- behaved in a manner which would justify the bringing of disciplinary proceedings

Where the IOPC decides that a person may have behaved in a manner which would justify the bringing of disciplinary proceedings, or that a criminal offence may have been committed,

we will write to the appropriate authority to direct them to record the matter as a recordable conduct matter. Once recorded, the appropriate authority must consider whether the recorded conduct should be referred to the IOPC.

In cases where the IOPC does not consider a person may have committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings, we can also consider the use of unsatisfactory performance procedures under the Performance regulations. In these cases, we will ask the force to submit a memorandum of whether a person's performance was unsatisfactory before deciding whether to recommend unsatisfactory performance procedures<sup>15</sup>.

The IOPC may make a determination on any other matter dealt with in the report. We will also consider if there are any areas of learning for the force or the wider police service. The IOPC has powers to make recommendations (and to give advice) to chief officers, police officers, LPBs

<sup>12</sup> SCRs take place following cases of known or suspected abuse or neglect when a child dies or is seriously harmed, or when a vulnerable adult has come to harm and there are concerns about how organisations or professionals worked together to protect them.

<sup>13</sup> DHRs take place when the death of a person aged 16 or over has, or appears to have, resulted from violence, abuse or neglect by someone who is related to them, or is in, or was in, an intimate relationship with them, or is a member of the same household as them.

<sup>14</sup> Paragraph 24A, Schedule 3, *Police Reform Act 2002*.

<sup>15</sup> Paragraph 27, Schedule 3, *Police Reform Act 2002*.

and contractors about the handling, recording and investigation of a DSI or general police practice<sup>16</sup>.

The IOPC can also make organisational learning recommendations directed towards other organisations – for example, the ambulance service or the College of Policing.

Where the IOPC agrees that there is no indication that a criminal offence has been committed or no indication that an officer or police staff member has behaved in a way that would require disciplinary proceedings, and we do not identify any additional learning, the IOPC will notify the force that no further action is needed. The force may still need to provide updates to the interested parties and follow up on any actions or learning identified.

If we are unable to determine from the DSI investigation report whether an officer or police staff member may have committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings, the IOPC will return the report to the force and request that further work is carried out. The force must then resubmit the report when this additional work is complete.

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<sup>16</sup> Section 10(e) of the *Police Reform Act 2002* and Regulation 6(1) (e) of The Independent Police Complaints Commission (Complaints and Misconduct) (Contractors) Regulations 2015.

## Get in touch

This guidance was published by the Independent Office of Police Conduct (IOPC) in September 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.



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