

# OVERSIGHT BULLETIN

Issue 4 – January/February/March 2017

**ipcc**  
independent  
police complaints  
commission

## Who have we seen this quarter?

### PSD meetings:

Avon and Somerset Constabulary  
Bedfordshire, Cambridgeshire and  
Hertfordshire constabularies  
British Transport Police  
Cheshire Constabulary  
City of London Police  
Cleveland Police  
Cumbria Constabulary  
Derbyshire Constabulary  
Devon and Cornwall Police  
Dyfed-Powys Police  
Essex Police  
Gangmasters and Labour Abuse  
Authority  
Greater Manchester Police  
Hampshire Constabulary  
HM Revenue & Customs  
Humberside Police  
Kent Police  
Lancashire Constabulary  
Leicestershire Police  
Lincolnshire Police  
Merseyside Police  
Metropolitan Police Service  
Ministry of Defence Police  
National Crime Agency  
Norfolk and Suffolk constabularies  
Northamptonshire Police  
Northumbria Police  
Nottinghamshire Police  
South Yorkshire Police  
Staffordshire Police  
Surrey Police (PSD and human  
resources lead)  
Sussex Police  
West Mercia Police  
West Midlands Police  
West Yorkshire Police

## Welcome to our Oversight bulletin.

We publish a new bulletin each quarter, looking back at issues raised during the previous three months.



## What trends have we spotted this quarter?

Among the issues raised by our operational staff, common topics have included:

### Referrals

We have seen an increase in the number of issues with referrals. Forces continue to seek advice about referrals, which is encouraged. The types of issues raised include:

- Mandatory referrals that should have been referred using our on-call facility.
- Referrals made after a significant period of time, with no explanation provided for the delay.
- Failure to recognise a death or serious injury matter (DSI).
- Referral of matters using the wrong origin of referral. For example, incorrectly identifying a matter as a complaint, recordable conduct matter, or DSI.

### Points to remember

- Our referral advice is in section 8 of the IPCC Statutory Guidance: [www.ipcc.gov.uk/page/statutory-guidance](http://www.ipcc.gov.uk/page/statutory-guidance)  
Supplementary guidance is in issue nine of Focus, our publication for forces that gives advice and examples of complaints: [www.ipcc.gov.uk/page/publications-for-forces](http://www.ipcc.gov.uk/page/publications-for-forces)
- Regulations state: “A mandatory referral must be made without delay, and in any case not later than the end of the day after the day it first becomes clear that it is a matter which must be referred.”<sup>1</sup>

1. Regulations 4, 7 and 8, Police (Complaints and Misconduct) Regulations 2012.

## Who have we seen this quarter?

### National meetings:

South East Regional Practitioners  
South East Regional Heads of PSDs  
The National Police Chiefs Council  
Complaints and Misconduct  
Working Group

## Statutory Guidance

# FOCUS

- › If a delay occurs, an explanation should be given indicating the evidence that has come to light requiring referral (or re-referral) of the matter.
- › We have an on-call service which should be used to refer matters out-of-hours:
  - Out-of-hours refers to from 5pm to 9am, Monday to Friday, and 24 hours on Saturday, Sunday and bank holidays. To make a referral out-of- hours call 020 7166 3033. If you do not get a response within 30 minutes, or the number is unobtainable, please contact 020 7166 3031. Finally, if you are unable to contact our normal out-of-hours service please use the following number 0845 3001972.
- › During our normal office hours, which are 9am to 5pm on weekdays, all calls about referrals, both urgent and non-urgent, come through the Assessment Unit telephone number, 0161 246 8504. If you are unable to reach anyone on this number please call 0300 020 0096.

## Discrimination

We have seen an increase in the number of appeals where PSD investigators have not applied the IPCC Guidelines for Handling Allegations of Discrimination. Read the guidelines on our website: [www.ipcc.gov.uk/page/statutory-guidance](http://www.ipcc.gov.uk/page/statutory-guidance)

Please remember to use the guidance when investigating complaints about discrimination. Our Force Liaison and Oversight team is always available to help if you have questions about applying the guidance. We will publish a report into the impact of the revised guidelines shortly.

## Queries:

The team responded to 214 telephone and email queries in January, February and March. Among the topics discussed:

### The application of the police complaints system to contractors

- › The complaints system covers all police staff and contractors in a wide variety of roles. These include staff in:
  - custody
  - G4S
  - administration
  - forensics crime scene investigation



## You told us!!

Some forces have told us that it would be useful to have engagement with managers in investigations. The Oversight team is happy to co-ordinate this.

One force has asked about what work we have done to look at overseeing the work of TITAN, the North West Regional Organised Crime Unit. An IPCC Commissioner and Oversight Force Liaison (OFL) are arranging a visit to the unit.



## Forward look

We have been developing an advice note to summarise existing guidance on vexatious complaints. This refers to practices developed at a number of forces for managing persistent complainants and those who make large numbers of complaints. We will share this in due course.

We told you in our last bulletin that we had completed our work on the discrimination review project. We wanted to assess the impact of the revised guidelines that were published for forces. We have now drafted our evaluation report and will publish this in due course. Ahead of publication, we will engage with the forces that helped with the project to ensure they are fully aware of the content of the report.

- › The definition of a contractor is a person who has entered into a contract with a local policing body or a chief officer to provide services to a chief officer. This includes a person working for an organisation who has a contract with a local policing body or chief officer. It also includes a sub-contractor.<sup>2</sup>
- › The appropriate authority for all contractors is the chief officer of the force they work for.<sup>3</sup>
- › Where a contractor is the subject of a complaint, appeal or investigation the case must be dealt with under the Independent Police Complaints Commission (Complaints and Misconduct) (Contractors) Regulations 2015. Read the guidance on our website: [www.ipcc.gov.uk/page/police-staff-and-contractors-how-complaints-are-handled](http://www.ipcc.gov.uk/page/police-staff-and-contractors-how-complaints-are-handled)
- › The police Standards of Professional Behaviour are unlikely to apply to contractors. Their application depends on the specific contract between the contractor and the chief officer or local policing body.
- › The regulations refer to ‘contractor standards’ which are the behaviours and standards they are required to comply with under the contractor’s conduct and performance policies.<sup>4</sup>

## How is the case to answer test applied?

We continue to receive queries and questions about the application of the case to answer test. Read the clarification in issue 3 of the Oversight bulletin on our website: [www.ipcc.gov.uk/page/publications-for-forces](http://www.ipcc.gov.uk/page/publications-for-forces)

We have written separately to chief constables to provide additional information. The discussion about case to answer will continue to be part of the ongoing conversations with your OFLs.

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2. Section 12(10), *Police Reform Act 2002*

3. Regulation 2, Independent Police Complaints Commission (Complaints and Misconduct) (Contractors) Regulations 2015

4. Regulation 2, Independent Police Complaints Commission (Complaints and Misconduct) (Contractors) Regulations 2015



## Correspondence from the IPCC this quarter

- › Survey asking for opinions on Organisational Learning Recommendations (10 January 2017).
- › Information from us about the referral of abuse of position for sexual gain allegations (30 January 2017).
- › Letter regarding the publication of the public confidence survey results (8 February 2017).
- › Correspondence regarding the publication of our draft guidance for use following a death or serious injury involving the police (21 February 2017).
- › Learning the Lessons Bulletin 29 (30 March 2017).
- › Information about our new independent investigation report templates (30 March 2017).

If you have missed any of the above correspondence please contact your OFL who will be able to forward a copy.



## Messages

### Disciplinary policies for civilian police staff

We are aware of the application of different practices across forces in setting out the role of the *Police Reform Act 2002* (PRA) and the IPCC in internal staff disciplinary policies. While some internal staff disciplinary policies include this information, other policies do not mention the PRA at all.

We know that disciplinary procedures for police civilian employees are internal matters for forces to pursue in line with applicable employment legislation. However, there is an overlap with the PRA because, under that legislation, investigations can lead to a force or appropriate authority being under a duty to take disciplinary action.

**We recommend that forces should consider reviewing staff disciplinary policies. These should:**

- › Refer to the PRA and explain that the investigation may be required to be conducted in accordance with that Act.
- › Explain that more serious and/or sensitive complaints, conduct matters, or DSI matters may result in a managed, supervised, or independent, investigation by us.
- › Set out that less serious matters which still fall under the PRA may be investigated locally.
- › Explain that where the matter is a complaint from a member of the public, the complainant may appeal to the relevant appeal body (either the chief officer or the IPCC) if they are not satisfied with the outcome.<sup>5</sup>
- › State that where we have investigated, or following an appeal, we can recommend or direct the force to take further action including disciplinary action against an employee.<sup>6</sup>
- › Explain that ‘disciplinary action’ in this context includes any proceedings or management process during which the performance of a staff member is considered<sup>7</sup>, as well as processes where the conduct of a staff member is considered. This information should also be contained in any separate staff performance policy.

5. Paragraph 25 Schedule 3 *Police Reform Act 2002*

6. Paragraph 27(3) and (4) Schedule 3 *Police Reform Act 2002*

7. Regulation 36 Police (Complaints and Misconduct) Regulations 2012



## Abuse of position for sexual gain

Following the publication of the HM Inspectorate of Constabulary (HMIC) police effectiveness, efficiency and legitimacy (PEEL) inspections, we wrote to all forces highlighting that allegations of abuse of position for sexual gain should be treated as serious corruption. We also asked for any open cases to be referred. For matters already investigated, but with hindsight ought to have been referred, we created a template for forces to complete. We are currently reviewing the responses and will communicate further on this matter.



## Want to know more?

What else would you like to see in these updates? Get in touch and let us know!

## @ Contact us

Email: [force\\_oversight@ipcc.gsi.gov.uk](mailto:force_oversight@ipcc.gsi.gov.uk)

- Explain that in PRA investigations, when the force has accepted a recommendation or been directed by us that disciplinary action should be taken, the force will be under a duty to make sure disciplinary action is progressed. The policy should also explain that you may be required to take specific steps as directed by the IPCC to implement a recommendation.<sup>8</sup>
- Explain we will be kept informed of any disciplinary action taken against the staff member as a result of a managed or independent investigation by us, or on the recommendation or direction of the Commission.<sup>9</sup>

## Changes to our case management

Earlier this year, the *Policing and Crime Act 2017* was passed, which will simplify and streamline the police complaints system. The Act addresses a range of policing issues, and introduces several changes that we have sought – both to the police complaints system and to our structure of the IPCC. In due course, we will be renamed the Independent Office for Police Conduct, with a new leadership structure.

As a result of these changes, the decision maker in a number of our cases will be changing. This will not affect the day-to-day running of investigations, and our investigations will continue to be led by trained and experienced people, working to high standards to reflect our values, including the importance of our independence. Forces will receive more information about the investigations this will affect on case-by-case basis.

## Egress

We recently wrote to you to share some information about our use of the Egress file transfer system and to encourage its use at all forces. Egress is certified by the Government and is a secure means of sending files between organisations. Egress is already being used by our investigation teams and some of you may have already been receiving investigations data using the system. The system allows our investigators to send materials to forces using a secure electronic means, saving time and reducing costs. We would encourage forces to use the system as these resource and time savings will occur throughout the Egress chain. Our OFLs will also discuss this with PSDs at their regular force meetings.

<sup>8</sup>. Paragraph 27(2) and (7) Schedule 3 *Police Reform Act 2002*

<sup>9</sup>. Paragraph 27(9) Schedule 3 *Police Reform Act 2002*