

CODE OF PRACTICE DEALING WITH THE RELATIONSHIP BETWEEN DG AND INDEPENDENT OFFICE FOR POLICE CONDUCT

1. Preamble/Purpose of Code

The Policing and Crime Act 2017 received Royal Assent in January 2017. The Act re-designates the corporate body that is the Independent Police Complaints Commission (the **Commission**) as the Independent Office for Police Conduct (the **Office**). The Office consists of a crown-appointed Director General (DG) and at least six other members, with non-executive members being in a majority. These governance changes came into force on 8 January 2018. The Office is referred to as the 'Unitary Board' when members of the Office meet in a governance capacity.

Chapter 5, Section 34 of the Act adds a new section 10D of the Police Reform Act 2002 (the **PRA**), which requires a Code of Practice to be prepared and published, dealing with the relationship between the DG and the Office. This must in particular seek to reflect the principle that the DG is to act independently when making decisions in connection with the carrying out of the DG's functions. The Code must also include provision as to how a strategy for the carrying out of the DG's functions is to be prepared and agreed by the Office.

The Code is subject to approval by the Office at a Board meeting and the DG and the Office will then comply with the provisions of the Code.

2. Functions

The **Director General's statutory functions are (in summary form):**

- to secure the maintenance by the Director General, local policing bodies and chief officers, of 'suitable arrangements' concerning the handling, recording and investigation of complaints, allegations of misconduct/criminality and death or serious injury matters, relating to persons serving with the police (often referred to generically as the 'police complaints system').
- to keep these 'suitable arrangements' concerning the 'police complaints system':
 - under review;
 - complying with the provisions of the PRA;
 - efficient and effective; and
 - containing and manifesting an appropriate degree of independence.
- to secure and maintain public confidence in the police complaints system;
- to make recommendations, and give advice, for the modification of:
 - these 'suitable arrangements'; or
 - police practice in relation to other matters, as the Director General considers necessary or desirable.
- to carry out the above functions in relation to other bodies of constables (i.e. constabularies not maintained by local policing bodies) to such an extent as required to do so by regulation or further to any agreement or order under section 26 of the PRA;
- to carry out the above functions in relation to the National Crime Agency or further to any regulations under section 26C of the PRA;
- to carry out 'such corresponding functions' in relation to the officers of the Gangmasters and Labour Abuse Authority (in their capacity as labour abuse

prevention officers) or further to any regulations under section 26D of the PRA;

- to have the functions conferred on the Director General by virtue of:
 - any regulations issued further to section 39 of the PRA concerning police powers for contracted-out staff;
 - any regulations or arrangements relating to disciplinary or similar proceedings against persons serving with the police or against any members of any body of constables maintained otherwise than by a local policing body.
- any functions conferred on the Director General by regulations under section 29C of the PRA (regulations about super-complaints);
- any functions conferred on the Director General by part 2B PRA (whistleblowing) (when part 2B comes into force);
- to exercise the powers and duties conferred on the Director General by the PRA in a manner that the Director General considers best calculated to satisfy the above functions;
- to secure that arrangements exist which are conducive to, and facilitate, the reporting of misconduct by persons in relation to whose conduct the Director General has functions;
- to enter into arrangements with the chief inspector of constabulary for the purposes of securing co-operation, in the carrying out of their respective functions, and to provide inspectors of constabulary all such assistance and co-operation as may be required by those arrangements, or as otherwise appears to the Director General to be appropriate;
- to have regard to any advice provided to the Director General by the Office;
- subject to the other provisions of the PRA, the Director General may do anything which appears to the Director General to be calculated to facilitate, or is incidental or conducive to, the carrying out of the Director General's functions.

The majority of statutory decisions related to these functions are made in the name of the DG.

The functions of the **Office** are to:

- secure that the Office has in place appropriate arrangements for good governance and financial management;
- determine and promote the strategic aims and values of the Office;
- provide support and advice to the DG in the carrying out of the DG's functions;
- monitor and review the carrying out of such functions.

The Office also has such functions as are conferred on it by any other enactment (whenever passed or made). The Office is to perform its functions for the general purposes of improving the way in which the DG's functions are carried out (including by encouraging the efficient and effective use of resources in the carrying out of those functions). In carrying out its functions, the Office must in particular have regard to: public confidence in the existence of suitable arrangements concerning the handling, recording and investigation of complaints, allegations of misconduct/criminality and death or serious injury matters, relating to persons serving with the police; and, with the operation of the arrangements that are in fact maintained with respect to those matters.

The Office may do anything which appears to it to be calculated to facilitate, or is incidental or conducive to, the carrying out of its functions.

The DG and the Office must **jointly**:

- prepare a strategy which sets out how the DG and the Office propose to carry out their functions over the period of the strategy;
- review the strategy and revise it as appropriate at least once every 12 months;
- include within the strategy a plan for the use of resources for the carrying out of functions of the DG and the Office;
- publish the Strategy.

Each must carry out their functions efficiently and effectively and give effect to the strategy in carrying out their functions.

3. Setting the Strategy

The strategy will be in the form of a three-year Strategic Plan, accompanied by an annual Business Plan setting out how the DG and the Office will give effect to the strategy in that one year period (in particular how resources will be deployed).

The DG will prepare a draft Strategic Plan and Business Plan for review, discussion, amendment (as necessary) and agreement by the Office. The Strategic Plan will include a statement of the strategic aims and values of the Office.

The Strategic Plan will be reviewed each year alongside the Business Plan to ensure that it remains fit for purpose. If substantial changes are required then a new multi-year Strategic Plan will be produced and agreed. Minor modifications can, with the agreement of the Office, be agreed and documented as part of the Business Plan for that year.

4. Monitoring the carrying out of the DG's functions

During the financial year, the DG will provide the Office with regular reports to allow the Office to monitor progress in delivering the Business Plan for the year, including outcome reporting and outturn against the approved budget.

In scrutinising the DG's reports, the Office will offer support, challenge and advice to enhance the effectiveness of the DG in the carrying out of their functions. The DG will have regard to those representations while maintaining complete discretion / independence in carrying out their functions. Neither the Office collectively nor individual non-executive members will seek to influence any on-going individual operational decisions, albeit they can probe and challenge historic individual or thematic operational decision-making as part of the Office's role of supporting, advising, monitoring and reviewing the DG's exercise of their functions.

Where the Board considers that the advice it has given has not been followed by the DG and that it needs to be formally recorded - this advice will be documented in the Board meeting minutes and the DG's response to the advice (including the reasons for not following the advice) will be similarly reflected in the Board meeting minutes. The minutes will refer to this advice by reference to the relevant statutory provision (section 10D(3)(PRA)).

5. Scrutiny of arrangements for good governance and financial management

The Office will secure good governance and financial management through establishing an Audit and Risk Assurance Committee (as per paragraph 10(1A)(b) of schedule 2 PRA) whose remit will include audit and risk and scrutiny of financial and governance matters.

The DG has been appointed as the IOPC's Accounting Officer by letter dated 8 January 2018 by the Home Office Permanent Secretary Philip Rutnam (the principal Accounting Officer for the Home Department). The letter makes clear that:

“As Accounting Officer you [the DG] are accountable, as set out in the Framework Agreement, for the IOPC use of resources in carrying out of its functions. In particular, I expect you to take personal responsibility for the following (as appropriate):

- (a) personally sign the formal accounts of the organisation, its Annual Report and the governance statement;*
- (b) ensure that proper financial procedures are followed and that accounting records are maintained in a form which meets the requirements of the organisation's internal management, of the monitoring arrangements agreed with the Department and of the IOPC's formal accounts;*
- (c) ensure that the public funds for which you are responsible as Accounting Officer are properly and well managed and safeguarded, with independent and effective checks of cash balances in the hands of any official. Similar care, including checks as appropriate, must be taken of other assets including stores, equipment of property of any kind held by the IOPC;*
- (d) avoid waste and extravagance and seek economy, efficiency, and effectiveness in the use of all resources made available to the IOPC.*

To this end you should ensure that the IOPC is organised and staffed in accordance with the principles set out in MPM and that appropriate arrangements are made to provide specialist skills and services....”

The Audit and Risk Assurance Committee, together with the Unitary Board, will provide scrutiny, advice and support to the DG in the exercise of this Accounting Officer function.

6. Publication, Review and Revision

This Code will be published on the IOPC website stating the date from which it applies. It must be jointly reviewed on an annual basis.

30 April 2020