



FOCUS

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HANDLING COMPLAINTS INVOLVING RACE DISCRIMINATION

To complement the guidance that already exists, and in consideration of the new avenues open to complaints handlers (through recent changes to the complaint handling framework), we have put together this practical guide - divided into three sections;

Section one will address the most common barriers preventing the effective handling of race discrimination matters.

Section two will feature a selection of force approaches and initiatives that aim to address the difficulties they have encountered and improve their own handling of complaints.

Section three will contain a list of frequently asked questions and links to formal recommendations made by the IOPC on the matter.

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Foreword

As Regional Director for London and the IOPC Strategic Lead on Discrimination, I have the privilege of welcoming you to this special edition of Focus, an edition dedicated entirely to the handling of matters involving racial discrimination.

It is right to start my introduction with an acknowledgement. The concerns around racial discrimination and policing, for some communities, are decades old.

In the summer of 2020, a global conversation on race was reignited. This was set in train by the horrific murder of George Floyd, and the subsequent Black Lives Matter movement. Longstanding concerns from Black communities about their relationship with policing and concerns about racism were brought to the forefront. An intense spotlight was shone onto these issues, leading to protests and high-profile incidents and crucially, highlighting the need to act.

Driven by this, in September 2020, the IOPC announced its decision to bring forward its focus on race discrimination, as a thematic area. Our aim? To shine a spotlight on concerns and systemic issues impacting trust and confidence in policing, to ensure that we have a police service where all communities feel protected and respected by the police. We aim to do this by identifying trends and issues of concern, to help drive real change in policing practice and facilitate an open and responsive policing culture. Our work on matters such as [Operation Hotton](#), and our [National stop and search learning report](#), demonstrate our approach here.

Following extensive consultation with our stakeholders – we knew that issues involving racial discrimination and policing were a significant area of concern among Black, Asian and other ethnic minority groups.

However, in contrast, the complaint statistics showed that complaints about racial discrimination were low, and only a very small proportion resulted in a formal disciplinary

sanction for the police officer and/or staff member. Through a review of IOPC appeals and reviews, there was an indication that complaint handlers and decision-makers struggled to address more nuanced racial discrimination complaints, particularly where the alleged discrimination was not obvious – or ‘overt’.

We often see that while the underlying matters of conduct have been given appropriate attention, the discrimination aspect hasn’t. Complaint handlers must give equal consideration into looking at whether discrimination was a motivating factor in order to take a holistic view of the conduct. It’s important not to deal with the discrimination complaint in isolation, regardless of how the complaint is being handled.

Good complaints handling of matters involving discrimination isn’t that different from handling other types of complaint. It’s about using an approach that explores the issues effectively and proportionately, to address the individual concern and protect public confidence. It involves considering the readily available evidence, seeking accounts, assessing their credibility and weighing up the police actions against the information available. The ultimate aim is to do what is reasonable and proportionate to answer the complaint in a way that isn’t dismissive, and which promotes a culture of learning and reflection.

Matters involving issues of discrimination attract significant public interest and are one of the areas most frequently raised by communities and stakeholders in our engagement work. They deeply affect our communities and based on how the matters are addressed, can shape attitudes towards the police, which often go beyond personal interactions.

If people feel they have been treated differently and unfairly because of their race, the perceived legitimacy of, and indeed trust in policing, is corroded. It is often in this context that complaints are made, or matters come to the attention of the police. The way in which these complaints are subsequently handled is crucial in repairing that damaged confidence. Each

complaint that is handled effectively brings with it an opportunity to restore that damaged trust through accountability and learning, narrowing the confidence gap between marginalised communities, and policing.

Our thematic work seeks to improve the police response to matters involving racial discrimination and local complaint handling. As an independent body that provides national oversight of the police complaints system, we are uniquely placed to identify issues and share learning to improve policing practice. We do this work in the context of, and welcoming the [NPCC and College of Policing Police Race Action Plan 2022](#) that acknowledges the need to address racism, discrimination and bias in policing.

This special edition of FOCUS seeks to share what we have learnt, ahead of revisions we will make to the [2015 IPCC Guidelines for Handling Allegations of Discrimination](#). These revisions will reflect changes to the legislative framework for complaints handling, as well as providing updated guidance on the principles and approaches. We will also use the evidence gathered through our operational work and stakeholder engagement to develop an organisational view on issues linked to racism, discrimination and bias.

Additionally, we are providing refresher training to IOPC operational staff, to ensure they have an in-depth understanding of how to approach complaints involving matters of discrimination, empowering our staff to make considered and robust decisions.

We recognise that complaint handlers do not always feel confident or well-equipped to explore complaints about discrimination and/or bias. It can be particularly challenging when the discrimination and/or bias relates to a protected characteristic or marginalised group – particularly where the subtleties of people's beliefs and their own cultural understandings are different to their own.

Policing has asked for additional guidance on how to deal with more nuanced complaints, particularly where they find that the more traditional methods of gathering and analysing evidence are not always easy to apply. Given this difficulty, the purpose of this edition of Focus is to constructively challenge complaint handlers' views on what is considered good and reliable evidence, then looking at how to use it to confidently make and articulate decisions. It's also equally important in this edition to highlight the innovation and change that is happening across different police forces, as they try to engender lasting change where it is needed. It will ensure that complaint handlers are part of the solution, playing a vital role in recognising the discriminatory experience and impact, and exploring concerns effectively to prevent an extension of that discriminatory impact being felt within the complaints process.

We all share a common purpose, to improve public trust and confidence in policing. To realise that purpose, and to improve the handling of race discrimination matters, it is vital that we work together.

We hope that this issue of Focus can play an important part in this.



Sal Naseem

Regional Director for London and
IOPC Strategic Lead on Discrimination

Section One – Challenges

This section seeks to address some of the most common barriers preventing the effective handling of race discrimination allegations. The main points have been grouped into themes and the issues addressed collectively.

When reading the guidance, it is important to keep in mind the general principles of reasonable and proportionate handling,

which are set out in [Chapter 3 of the IOPC Statutory Guidance](#).

To summarise, they are:

- customer service focus
- case by case approach
- considering the wider context
- fair and effective decisions

1. Communication with the complainant

Engagement

Initial engagement with the complainant is pivotal to a positive complaint handling experience, setting the tone in which the complaint is handled.

Investing time in the early stages, to engage with the complainant and understand their complaint, ensures that the direction of travel is right first time, maintains the complainant's engagement in the process and reduces the need for a second attempt at addressing the complaint - which could seriously undermine the complainant's faith in the complaints system. It is more constructive to have these discussions at the beginning, then maintain steady contact throughout the complaints handling. Effective engagement that manages expectations throughout, can increase the likelihood that the findings will be understood and accepted - even if the evidence does not show that racial discrimination was a factor.

If the complaint handler chooses to send a questionnaire to the complainant to gather further information, it is vital that it contains a bespoke list of questions that apply to the situation. It might be helpful to include a free-text question, to capture anything that might not initially be obvious, or explicitly stated. Including pointers for the completion of a free-text question may be useful to keep the response focused, but care should be taken not to unduly restrict, or cut short any information the complainant may wish to

provide. The complaint handler should contact the complainant to explain that they are going to be sending them a list of questions, in order to gather further information about their complaint. They should also explain that they will use this information as the basis of an initial discussion about their complaint. It may feel burdensome or traumatic for the complainant to have to reiterate or relive the complaint. Therefore, it is important to be clear about why these questions are being asked in addition to what has already been provided in the complaint, and how the answers given will inform the handling.

There will be occasions when the complainant does not wish to have a follow-up conversation with the complaint handler. While the complainant's preferences should be acknowledged, dialogue with the complaint handler should be encouraged and, the benefits of their continued engagement highlighted to the complainant. Referring to the list of considerations in our [Discrimination Guidelines](#) is most effective when used to frame a discussion with the complainant that is tailored to the complaint. It should be emphasised that if it is not possible to fully explore the complaint, this may limit the ability to gain further insight into why the complainant felt they were discriminated against. However, this should not prevent the complaint handler from identifying the relevant lines of enquiry or seeking to understand the complaint using other available resources.

Once the complaint handler has gathered further information through the questionnaire, or other form of approach - and made reasonable attempts to explore the issues with the complainant, this information should be used to make crucial decisions around how the complaint should be handled.

The information gathered will feed into the terms of reference; determine lines of enquiry; help frame questions to officers and provide evidence of impact. It is central to the analysis of the evidence. Explaining this to the complainant is key.

Communication with officers is equally as important and careful consideration should be given to how it is approached. Questions should be put to the officers in an open way, setting out the context of the complaint and the complainant's views of the incident. This should encourage reflection and reduce the risk of receiving defensive responses. Conversely, asking a series of closed questions to which officers can respond with just a 'yes' or 'no' restricts the opportunity for detail, further probing, or follow-up questions.

CASE STUDY ONE

Lack of engagement between complaint handler and complainant

A Black man was stopped and searched for possession of drugs twice within the space of 30 minutes while sitting in his parked car waiting for his colleague outside his house. The man complained that both stops and searches were inappropriate; the use of handcuffs was unnecessary; and that he was treated differently and unfairly. The complaint was assessed as suitable for handling otherwise than by investigation (see paragraphs 10.5-10.9 and Chapter 12 of the [IOPC Statutory Guidance](#)). The IOPC received a review against the outcome of the complaint, where the issue about being treated unfairly because he was 'different' had not been addressed within the handling. This review was upheld and returned to the force for an investigation to further address the complaint.

In the review papers, the complainant reiterated that he was treated unfairly and added that this was because he was racially profiled. The case papers confirmed that there had been no engagement with the complainant to allow for the reasons for the complaint to be fully understood. On receiving

the complaint, the complaint handler should have explored each of the allegations and in particular, what made the complainant feel that his treatment was unfair. The complaint handler should have explored the difference that the complainant referred to and why he felt it impacted on why he was stopped and searched.

If the complaint handler had properly engaged with the complainant at the start, the allegation of racial discrimination would not have been missed. This would have impacted on the decisions made for how the complaint was handled, the assessment of seriousness and the types of enquiry conducted. Proper handling of the complaint could have started to rebuild the complainant's trust in the police from the outset.

This example illustrates missed opportunities to fully explore the root cause of the complainant's dissatisfaction. The complaint handler should have recognised that there might be reasons why the complainant may not have been explicit about their 'difference' in the complaint form.

Understanding the heart of the complaint and whether discrimination may be a factor

Sometimes, a complainant may not be able to fully articulate their complaint well in writing - which is why it is important to follow the above-mentioned steps to get to the heart of the dissatisfaction. Complaint handlers should possess the relevant skills to probe and be empathetic. Even if the complainant has the opportunity to verbally express their concerns, it is vital to be alive to the fact that they may not use terms such as 'discrimination' or 'racist' - even if different and unfair treatment based on their race is at the heart of the complaint.

It is not the complainant's responsibility to use accurate phrasing or certain terminology. Young people, for instance, might not know how to

effectively express their concerns to enable their complaint to be handled in the correct way, setting in motion the legislative requirements. Similarly, in the case that English is not an individual's first language, a person may not have the range of vocabulary to properly describe the behaviour they are complaining about.

It is not about 'putting words in the mouth' of the complainant, but is about understanding that the treatment they are alleging could amount to racial discrimination if proved, and not being reluctant to identify that as a possibility - exploring it with the complainant.



Ask yourself

What steps should I take to set the tone for a positive complainant experience?

- Ask the complainant how they would like to be communicated with and be flexible to accommodate changing needs
- Explore the complaint sensitively, with empathy and without the use of overly technical terms
- Consider using general resolution principles to understand the complaint and manage expectations. Ask the complainant – what happened; what the impact was; and what do they want to happen next
- Support the complainant where English is not their first language
- Where a list of questions is sent to the complainant, tailor them to the complaint
- Tell the complainant how the information they are providing will be used in the handling
- Use the complaint to feed into the terms of reference; lines of enquiry; when framing questions to officers; and to provide evidence of impact
- When addressing the complaint with officers/ subjects, use open questions in the context of the complaint

Reluctance to disclose ethnicity

The complainant may be reluctant to declare their ethnicity when making this type of complaint. Complaint handlers should ask themselves whether this in itself could be an indication that the complainant feels that, because of their ethnicity, their complaint might not be treated seriously, or fairly. If they have had negative experiences in the past, perhaps when reporting a crime, during a neighbour dispute, or premises search, they may believe that this

treatment will be extended to the handling of their complaint if they declare their ethnicity.

This also applies to the declaration of ethnicity, or lack of, on reviews. As part of their local oversight role, this might be a matter that is identified by Local Policing Bodies (LPBs), as a pattern or trend. It could prompt further work to understand some of the barriers complainants may face, whether real or perceived.

2. Complaints involving allegations of discriminatory bias, assumptions, and stereotypes

It is recognised that complaints stemming from a person's experience of how they have been treated are more challenging to address. This is because their experience may be linked to a view that biases, assumptions or stereotypes have influenced the police's behaviour towards the complainant and in turn affected their decisions and actions. This is why it is important to understand how bias and assumptions might typically manifest themselves during interactions with the police.

In the case of a complaint where race discrimination is believed to be the motivating or contributing factor, the type of evidence that may need to be considered will often be different to the type of evidence that will be gathered for other kinds of complaint. This may feature in complaints involving; allegations of discriminatory bias, assumptions or stereotypes, lack of respect or empathy, or little or no reason provided for actions and disproportionate use of policing powers.

A lack of what is considered to be 'tangible' or 'conclusive' evidence by the complaint handler can sometimes be a barrier to concluding that discrimination was a factor. It can also be the reason that a formal outcome is not felt to be achievable, or even considered. This can leave the complainant with the impression that their concerns and feelings have not been explored and the lack of consideration of a formal outcome may appear to dismiss

their experience, and the impact of the police contact, as not real or valid.

It is evident from some of the cases that the IOPC have dealt with that, even when biases are explored and evidence tends to support that they exist, forces are unlikely to acknowledge less favourable treatment on this basis. These complaints are often treated as lower-level matters or labelled as lacking 'substance', due to the apparent lack of tangible or conclusive evidence. Often, the burden is inappropriately put on the complainant to provide the evidence of the less favourable treatment. Due to this, they are often regarded as suitable for quick resolution, with minimal exploration of the issues. However, these are exactly the types of complaint that may warrant a more in-depth handling which should rely on, and draw inference from, a range of reliable and relevant material. When taken together, that material could make a persuasive argument that discrimination may have been a factor in the behaviour. For further guidance on reviewing the cumulative picture of evidence, please refer to our [Discrimination Guidelines](#).

Even when the evidence may point away from discrimination being a reason for an officer's actions, it is still vitally important to acknowledge the types or behaviour that appear questionable or unjustified, or that reveal the existence of stereotypical assumptions.



Ask yourself

How should I explore whether stereotypical assumptions or bias influenced police actions?

- Were the police actions based on information and evidence relevant to the policing purpose?
- Where assumptions have been made, are they evidence-based? If not, what are they based on?
- Was it a poor assumption and could it be due to inexperience or lack of training? Or, could it suggest greater empathy for the alleged perpetrator over the alleged victim without reasonable justification?
- Have I assessed the plausibility of any non-discriminatory explanations?
- Does the objective evidence available support the explanations provided?
- Does the cumulative picture of evidence point towards or away from less favourable treatment?



Ask yourself

Is there an indication that race may be a motivating factor?

- Are there any actions or language that align to common derogatory racial stereotypes, or that reveal any bias or assumptions?
- Are there other factors that might point towards a discriminatory approach? For example; exaggerations; dismissive manner; lack of empathy; lack of courtesy and respect; failure to provide aftercare; failure to engage
- Have I assessed the plausibility of any non-discriminatory reasons provided for the officer's demeanour?
- Are there any patterns of behaviour in the officer's history that show a propensity for less favourable treatment of individuals of the same ethnicity as the complainant?

CASE STUDY TWO

Actions based on assumptions and stereotypes

Police were called to assist security staff at a football match who suspected that a man had entered the stadium without a ticket. The officer who attended immediately took hold of the man who verbally protested at the use of force and appeared to be trying to get the attention of a friend. The officer told the man to stop trying to talk to his friend and immediately placed him in handcuffs. He kept the man in handcuffs and called for more officers to attend, to assist with the removal of the man. When the other officers arrived, they quickly established that the friend the man had been signalling had his ticket for the football match. The officer who had used force gave a number of separate accounts of the incident, responding to further questions from the investigator. In the final account, the officer said that he stopped the man from speaking with his friend because he may have been involved in a gang and may have been calling other gang members who could turn up to assault the officer and his colleagues.

There was no evidence indicating the man was involved in a gang. The complaint handler formed a view that this explanation was based on an assumption that did not appear to be evidence-based. The man was Black, and the complaint handler also formed the view that the assumption was potentially discriminatory as there appeared to be no basis for this comment other than a stereotyped view of Black people as more likely to be involved in gangs. The officer was subject to unsatisfactory performance procedures (UPP) and the concern around stereotyping was raised in the proposed learning.

Approach to the handling

In this case, the interaction with the police clearly left the complainant feeling that they had been discriminated against because he was a Black man. For example, the quick escalation to using force, which

appeared unjustified and disproportionate, and references to the man being involved in a gang, which seemed to be based on an assumption. The role of the complaint handler was to explore whether the officer's actions pointed towards, or away, from unfavourable treatment.

There were plausible grounds for stopping the man, based on the report to police from the security staff. This is a strong non-discriminatory explanation for the initial stop that points away from unfavourable or unfair treatment. The officer stated that the use of force was necessary because the man was allegedly ignoring his attempts to engage with him and made a quick move away from him, as if to flee. However, there was objective evidence available of the encounter in the form of body-worn footage, which did not support the officer's view that the man was trying to escape. Therefore, the reasons given for the immediate use of force were considered weak, and, provided an indicator that the treatment of the complainant might be less favourable than would be expected in the circumstances.

There were a number of other important considerations that were factored in, such as; the dismissive approach; lack of empathy; failure to recognise the impact of the officer's demeanour on the man; and the reasons given for refusing to engage with him and gain his cooperation.

When considered holistically, there was an indication that the complainant received treatment that was less favourable than would be expected. The complaint handler then needed to determine whether this was because of the complainant's race. To do this, they gathered and explored the wider contextual evidence. They:

- took steps to fully understand the

complainant's concerns that decisions were based on stereotypical assumptions and specifically, obtained details of any actions or language used that may align to common negative stereotypes, based on the man's race

- reviewed previous complaint/conduct matters involving the use of force, to identify if there was any pattern in respect of the race of the individuals involved
- put the above evidence to the officer, to give them the opportunity to provide their non-discriminatory reasons for any alleged discriminatory actions or behaviour, then assessing their plausibility.

The investigation looked at how stereotypical assumptions had affected the officer's response to the incident, based on his inconsistent description of the man's behaviour, the unexplained leap to his involvement in a gang and the imminent threat that this posed. This was a clear exaggeration that was contradicted by other objective evidence.

Decisions and outcomes

As the above demonstrates, there was evidence that both pointed towards and away from less favourable treatment. On balance, the decision-maker decided that the evidence pointing away from less favourable treatment because of race, outweighed the evidence that pointed towards it - albeit there was evidence to support both views. This was largely down to the justification for the stop and no indication of any patterns of behaviour

showing a propensity for less favourable treatment of Black people in the comparator evidence and officer's complaint history. The complaint handler therefore concluded that the threshold for a case to answer was not met.

While the decision-maker decided the behaviour did not amount to misconduct, opportunities for learning and reflection were identified. UPP was recommended in order to provide the officer with the platform needed, to learn from the incident and, to explore; stereotypical biases; lack of care and respect; refusal to accept that anything could have been done differently and, use of force. Some of the officer's responses and explanations did not stand up to scrutiny when considered alongside the other evidence and seemed to rely on discriminatory stereotypes. This is why it was important to address these issues through formal performance procedures.

This case also demonstrates the importance of discussing the evidence and communicating outcomes in an empathetic manner, sincerely acknowledging how the interaction left the complainant feeling and not dismissing the experience of feeling discriminated against - simply because the evidence pointed away from discrimination being a motivating factor. It was important to acknowledge why the man experienced the encounter as discriminatory, acknowledge that the officer compounded this by referring to an unfounded potential link to gang activity, and, recognise that this reinforced the belief that assumptions and stereotypes were at play.

As this case demonstrates, a reasonable and proportionate outcome should recognise why an officer's actions were not good enough, even if there is insufficient evidence to support a case to answer for disciplinary action. It should be expressed in terms of evidence pointing towards or away from discrimination, rather than saying there is no evidence of discrimination. This allows the complaint handler to explain

conclusions in a manner that is not defensive or dismissive, but empathetic and based in evidence. [Chapter 17 of the statutory guidance](#) provides more information on the range of outcomes available, even if the decision does not always support the allegations. For example, consideration should always be given to whether there is any learning that can be taken from the incident that led to the complaint.

3. Complaints about poor levels of service

Where complaints are about not receiving the expected level of service, or decision-making not adhering to the expected standards, it can be challenging to identify explicit evidence linking police actions or behaviour to a person's race. However, this does not prevent an exploration of how that particular incident, or type of police interaction, *should* have been handled.

This is often the first step in exploring whether any deviation from the expected actions or behaviour points towards, or away from discrimination. It will almost always be considered in the context of the other evidence gathered and analysed, such as: patterns of behaviour; the officer's demeanour or attitude; the surrounding context and, the reasons offered

by the officer for their actions. When considered together, this helps to build a picture of the behaviour that either points towards, or away from discrimination and outlines whether it can be reasonably inferred that the person's race was a reason for the service provided.

Before even considering whether discrimination was a factor, it is important to judge the level of service the complainant received against what would be expected in the circumstances. For example, where a complaint is about the lack of action, or slow response in relation to a report of crime, or concern for safety or welfare, the officer's actions should be compared to the steps they are expected to take to investigate such a crime or incident - with reference to force policy, or guidance.



Ask yourself

What is the expected way of dealing with this type of incident, taking the protected characteristic out of the equation?

- What action should the officer/s have taken according to any relevant policy, or legal requirement?
- Did they follow the policy or expected/ required action?
- If not, how far did the actions knowingly stray from the policy or guidance and have they strayed far enough to cause concern?

Where a policy allows for discretion in how to progress a criminal investigation or incident, the complaint handler would need to judge whether the decision to follow a particular path was reasonable in the circumstances. Such decisions could be judged against: decisions made by other officers in similar circumstances, decisions

made by the subject officer when dealing with White victims of crime in similar circumstances - then comparing this to decisions made when dealing with victims of crime who are from a Black, Asian or other minority ethnic background.

Example

Assessment of actions against expected level of service

As part of an investigation into a complaint that police failed to properly investigate a report about a missing person, because the person was Asian, it would be appropriate to consider how other missing persons reports have been handled by the same officers - noting the race of the individuals involved.

The circumstances of the other missing persons reports may not be identical to the incident in question, but they may provide sufficient comparison to help explore the discrimination allegation.

Questions for the investigation and the complaints handler to consider would include:

- How were other cases risk assessed and handled, compared with the case subject to investigation?
- Is there any indication that missing persons who were not Asian were given greater priority or treated more seriously, in comparison with the case subject to investigation?
- If yes, were there evidence-based non-discriminatory reasons for this difference in prioritisation or risk assessment?

Considering the picture of evidence

It is important to consider the full range of information available and, to understand the impact of one piece of evidence on another,

using a cumulative and holistic picture to determine whether the behaviour points away from, or towards, a discriminatory approach.

CASE STUDY THREE

Assessing the full range of information and evidence

A member of the public reported to police that they had been refused service in a restaurant because of the family's ethnicity. They alleged that the owner had pushed them out of the restaurant and used derogatory language towards them. They then complained about the police's response to this report. The allegations related to: the officer's demeanour; lack of evidence gathered; failure to speak with the complainant's partner who was also present; biased attitudes; failure to comply with policy; and lack of professionalism. The force assessed the complaint as suitable for handling otherwise than by an investigation (see paragraphs 10.5-10.9 and Chapter 12 of the [IOPC Statutory Guidance](#)).

It was reviewed by the IOPC who identified several missing enquiries, which meant that the police actions were not compared against the expected standards. There was no discussion of how the relevant polices had been applied, no probing of the officers' explanations or consideration of previous history or experience. The complaint was returned to the force to carry out an investigation.

Approach to the handling

The force decided to handle the complaint outside of an investigation. Where a complaint might not meet the threshold for requiring investigation, the appropriate authority or complaint handler must consider

what enquiries are necessary to address the complaint and, whether the complexity of the enquiries would be better handled by an investigation. The decision to investigate can also be made during the handling of a complaint outside of investigation. This is generally when additional evidence or more information from the complainant influences the gravity of the complaint and determines it is appropriate to investigate.

If a matter is handled outside an investigation, this can limit the scope of the handling. It also restricts the actions and remedies available during any subsequent review, such as commissioning further work, which could address the matters there and then - as was the case here. 'Commissioning further work' is a tool that is sometimes available during the review process to help progress the completion of the complaint handling, where enquiries have been missed. It can be used where there is not enough information to determine a review and the matter has been investigated. In these circumstances, the IOPC is the only review body able to request that the appropriate authority undertakes further work to gather additional evidential material.

An appropriate approach in this case would have been to first establish what actions the officer was expected to carry out. For example: taking the victim's account; speaking with his partner; checking the CCTV at the premises; and turning on their body-worn video. As part of this, their actions should have been compared to any force or national policy, guidance, or training relevant to the handling of hate crimes or incidents. It would also have been relevant to consider the officer's experience of dealing with these types of incident and their training history, which might form part of the explanation for their actions.

Next, the complaint handler would need to consider any deviations from standard practice and seek the officer's reasons. In the original handling, the officer explained that they didn't seek the account of the victim's partner because she would have just corroborated

that of the victim, and that they didn't check the CCTV because the owner told them it was not available. This was not addressed further at the time. There are possible comparators in this scenario – the victim and their partner and the owner of the restaurant. An examination of the treatment of each party might assist to determine whether there was any indication of less, or more favourable treatment.

For example, was the officer's explanation for not speaking with the victim's partner consistent with policy? Did it suggest a dismissive attitude towards the victim and their partner? Was it based on a poor assumption and could this be informed by discriminatory stereotypes? Or, could this be due to inexperience or lack of training? Similarly, was the decision to take the owner's comments about the CCTV at face value standard procedure? Or, was this indicative of the officer placing more weight on his conversation with the owner? If so, what were the reasons for this and are they plausible?

Decisions and outcomes

Taking into account the above evidence, alongside the other available evidence (such as, statements and body-worn video), a cumulative picture is built. This can be used to assess whether the officer's actions and decisions point towards, or away from, discriminatory behaviour.

If the non-discriminatory reasons were more plausible and supported in evidence by the expected service standards, this would point away from discrimination being a factor. If the reasons were less convincing and did not adequately explain why policy or procedures were not followed, this could potentially point towards discriminatory behaviour. The complaint handler will need to look at other evidence to understand **why** this failing occurred. If it appears there is a lack of understanding of process or training, this might be better handled through procedures designed to address performance - which might include reflection on how the incident

was experienced as discriminatory by the complainant. If the officer's explanation demonstrated a complete disregard of standard procedure and a lack of respect or empathy, this would more strongly indicate the potential to be discriminatory - particularly

if they did not display the same behaviour towards the owner (a comparator). If this was further supported by a pattern of behaviour in previous incidents or complaints, this would further support the potential for discrimination being a motivating factor.



Ask yourself

Are there any indications of a poor level of service?

- Did the officer fail to undertake the expected actions, enquiries and responsibilities? What are the reasons for this?
- Did the officer fail to carry out an appropriate risk assessment?
- Does a lack of action point towards a lack of care?
- Has there been a difference in treatment? What are the reasons for this?
- Is there an indication of less favourable or unfair treatment? For example: dismissive attitude; poor assumptions; placing inappropriate weight on one account over another?
- What is the officer's experience of, or training relevant to, dealing with the type of incident in question?

Consider the cumulative picture of evidence – is there an indication that race may have been a motivating factor? Is this supported by any discriminatory patterns of behaviour?

4. Addressing complaints about discriminatory use of police powers

Complaints about the discriminatory use of police powers are commonly associated with allegations around the disproportionate use of stop and search, and unnecessary use of force. The IOPC has published its [National Stop and Search learning report](#), which raises concerns and makes a number of recommendations about the use of stop and search, as a policing tactic. It is helpful to read the report alongside this guidance to gain a full understanding of some of the areas of poor practice that were identified and how this might translate into complaints. The National Stop and Search learning report includes recommendations that look to ensure that stop and search is effectively monitored and supervised, in order to highlight any concerning disproportionality. A consideration of disproportionality or repeated

previous complaints around the use of stop and search or use of force can provide contextual evidence to help understand whether the use of such powers was discriminatory.

If previous stop and search or use of force records are analysed for patterns showing potential disproportionality in the use of the power, care must be taken to avoid relying on a data set where the numbers are very small. A small data set could be too easily distorted by an atypical case, making it unlikely that any meaningful comparisons could be made, or reliable findings drawn. Where the statistical analysis may point towards a pattern of disproportionality, officer/s should always be given the opportunity to explain any apparent disproportionate behaviour relevant to the

incident in question.

While it can be relevant to consider concerning patterns of behaviour, decision-making should still focus on the decisions and behaviours of the officers during the specific stop and search or use of force which has been complained about. It will be particularly important to assess the strength of the grounds or justification given for the use of powers. Where the justification for police use of powers is weak or not supported by other evidence, there is increased scope for

discriminatory reasons to have played a part in police actions.

On a force-wide level, statistical information around use of powers can be used to identify and explore instances of clear disproportionality as part of a force's collective responsibility, to ensure powers are being used appropriately, effectively and in a way that meets their obligations under the [Public Sector Equality Duty](#).

Considering the plausibility of the grounds provided during a stop and search

Where weak grounds have been offered by the officer/s at the time of the original incident, this increases the risk that a stop has been based on assumptions, including discriminatory assumptions. It also increases the risk of such a stop being experienced as unfair and potentially discriminatory.

Complaint handlers need to be able to identify when weak grounds have been provided by the officer, then challenge the explanation for

the stop and search encounter. For example, an officer may offer the explanation that the stop was based on 'intelligence' about criminal activity, or drugs offences, taking place in a certain area. Where this is the apparent justification, the officer's reliance on the intelligence needs to be questioned and probed to establish how reasonable it was for the officer to have suspected an individual of being involved in such activity.

CASE STUDY FOUR

Weak grounds

Officers were on routine patrol and encountered a Black man sitting on a bike. The man was stopped and searched under the Misuse of Drugs Act. No drugs were found. He then complained that the grounds of the search were unreasonable and unlawful, that unnecessary force was used and that he was racially profiled.

The officers were asked to provide their reasons for the stop and search. They stated that push bikes were increasingly being used in crime by individuals in that particular area. They did not have any intelligence that this particular individual was involved in illegal drug dealing or the concealment of drugs. They described the complainant as hostile, evasive and waiting on the road without plausible explanation. One of the officers also stated

that they had noticed the complainant had put his hands in his pocket and that he did this again at a later point, and this reinforced his decision to search the complainant.

Approach to the handling

This explanation was considered alongside other available evidence. The officer provided a list of cases around the time where there was a link between a person on a push bike and illegal drug offences – alongside some local information about illegal drugs in the area. The body-worn video showed that the complainant was relaxed, not trying to flee on spotting the police or showing any concerning behaviour. It showed the complainant putting his hands in his pocket to retrieve his phone.

It also showed the officer asking the complainant why he was stopped in the road - the complainant then challenging the question and the officer stating that he found the fact that he was sat on the bike unusual. The body-worn video also displayed an awkward conversation but no evidence of the complainant being hostile. There was also little discussion before the officer made the decision to search the complainant under the Misuse of Drugs Act - only a few seconds after the officer approached the complainant.

In this case, the grounds for the stop and search were very weak. The footage did not support the description of the behaviour and demeanour of the complainant given by the officer as hostile and evasive. The officer's general local knowledge of push bikes being used in criminal activity was not enough to support stopping this particular individual and the officer did not provide a good enough explanation of why he thought the complainant was concealing drugs. Overall, the evidence showed that: the officers were unreasonably suspicious of the complainant; the grounds given at the time were so weak that they did not provide sufficient explanation to show that the stop and search was fair and legitimate, and; pointed strongly to less favourable treatment.

Decisions and outcomes

In this type of case, the complaint handler

would need to consider the impact of the lack of plausible grounds.

If there was a deliberate misapplication of the intelligence and this was supported by a pronounced disproportionate pattern of behaviour towards individuals from minority ethnic backgrounds, this would indicate the significant potential of less favourable treatment, because of a person's race. As such, there may be sufficient evidence to conclude that there has been a breach of the equality and diversity standard.

Where there is an indication that the officers lacked understanding and judgement of how to properly apply police intelligence to specific interactions, this would have less potential for discriminatory behaviour based on race - if the evidence suggests that this behaviour was common, irrespective of the person's race. A potential outcome in this scenario would be individual learning for the officers on how to use intelligence to make appropriate decisions and, how to apply personal responsibility when using the powers available to them. It might also be reasonable to ask the officers to reflect on how individuals may experience stops and searches; that challenges to their actions and authority should not be automatically considered to be hostile behaviour; and consider appropriate ways for dealing with such challenges to avoid the unnecessary escalation to the use of force.



Ask yourself

How plausible are the grounds for the use of the powers in question?

- Where intelligence or knowledge has been relied upon, how credible is it?
- How relevant is the intelligence or knowledge to the incident and person in question?
- Have officers relied heavily on intelligence relating to geographical location that is vague or unspecific, such as, reference to a 'high crime area' or 'hotspot'?
- Where the use of powers is based on suspicious behaviour, does the evidence support or conflict with the officer's description of the behaviour?
- Have officers relied heavily on personal characteristics, or behavioural factors, that are vague, such as; 'looking nervous' or 'looked at police car'?
- Were the police suspicions reasonable in the context of the incident and available evidence?

An awareness of the forces figures on disproportionality might inform decisions around how a complaint should be handled and examining an officer's appreciation of this would be a relevant line of enquiry. For these types of complaints, it would be appropriate to explore the officer's understanding of the wider context in which they have used their powers. For example, the complaint handler might question the officer about their understanding

of the demographics of the area they work in; community issues; historical context; or knowledge about the use of stop and search being a contentious issue amongst some communities. This is because officers need to have an awareness of the wider policing context in which they operate and where they do not have a good understanding, this is where individual or wider learning would be an appropriate outcome.

5. Learning and reflection

Where a complaint handler reaches the decision that there is no case to answer for a breach of the equality and diversity standards of behaviour, or concludes that the level of service was acceptable, there may still be potential

for learning and reflection. Where a case to answer for misconduct has been found, there may still be opportunities for organisational learning - irrespective of whether there are disciplinary proceedings.

CASE STUDY FIVE

Concluding that the service provided was acceptable with opportunities for reflection

Officers attended reports of a fight between two men on the street, at night. Both men belonged to the Traveller community. When officers arrived, both men appeared drunk. One man was on the ground and complained of an injury to his back and significant pain. Officers called for and then cancelled an ambulance but drove the man to hospital. By the time they arrived at the hospital the man could neither walk nor stand up and was later assessed to have a serious back condition, and potentially life altering injuries. The man complained that officers lacked empathy and were dismissive of his injuries and aggressive, which he believed was because he was a Traveller.

Approach to the handling

Analysis of the body-worn video footage supported the officers' observations that the men appeared drunk. While reference could be heard to describing the complainant as 'difficult' and 'typical', the footage showed that the officers were attentive to his injuries and treated him with care. When questioned, one of the officers acknowledged that he may have referred to the man as being difficult because at certain points he was being obstructive and preventing the officer from providing the necessary care. He also explained that he referred to the complainant's behaviour as typical of someone who had consumed excess alcohol. He accepted that he may have been perceived as aggressive whilst trying to seek compliance from the man. The officer reflected and could see how the comments, together with his demeanour, may have appeared discriminatory. The video footage confirmed the officer's recollection of events and showed that the man resisted at times, shouting and gesticulating at the officers to keep away

from him, and showed that the officer raised his voice on occasion to attend to the man's injuries. When discussing the incident with the complainant, he explained that he didn't want to be touched because he was in pain.

Decisions and outcomes

On balance, the evidence indicated that the officers acted reasonably in the circumstances they were faced with and the complainant did not receive less favourable treatment. Whilst negative references were made to the complainant's behaviour, the officers provided plausible non-discriminatory reasons for their comments. This did not result in a poor service, with officers acting with care, and seeking medical assistance. The decision-maker therefore concluded that the service provided by the officers was acceptable.

In this case there were opportunities for learning and reflection. Although the service was found to be acceptable, the complaint handling process had allowed the officer to understand why the complainant resisted his help, acknowledge the reasons why he experienced the encounter as discriminatory and reflect on the impact this had had. However, the complaint handler did not share this with the complainant. If they had shared this information, reassurance would have been provided to the complainant that the officer had learned from the interaction. The complaint handler may also have considered inviting the complainant to review the body-worn video footage as part of a complaint debrief. This would offer a practical way to depict the reasons behind the officer's change in manner, when the complainant did not allow officers to assist him.

Learning and reflection might also be a suitable outcome where the evidence points towards poor treatment but there is insufficient indication that this was due to a person's race. It would be an appropriate tool to address how assumptions may have influenced an officer's actions - and to acknowledge and address the discriminatory impact.

It would also be relevant in cases where officers need to understand why actions may have been experienced as racist or discriminatory. For instance, where force was used and escalated quickly against an individual because they had not been fully informed about the reasons for the encounter.

It might also be used to explain how the wider view of policing may have influenced how the officer's actions were interpreted. For example, in the context of the reporting of disproportionality in the use of stop and search, where officers fail to properly explain and account for their actions, and equally where the complainant has not been given the opportunity to explain themselves. This can impact on the legitimacy of the police use of this power and widen the confidence gap between some communities, and policing, on the use of that policing tactic.

CASE STUDY SIX

Considering the wider context

A 17-year-old Black boy complained about the police handling of a situation in which he and his friends were dispersed from the city centre, with no explanation given as to why they were not allowed to congregate in the area. In this case, reports had been made to the police by members of the public, raising concerns about a large gathering of children. The police had been permitted to use specific dispersal powers to move the children away from the area to reduce the likelihood of causing alarm or distress - or the occurrence of crime or disorder. The force investigator recognised that the officers could have better explained the reasons for their actions and acknowledged the individual and wider community impact. The force recommended an outcome of reflection and learning for the officers involved.

An IOPC reviewer made the following comments in their assessment:

It is important to consider the wider context of policing and race, and how this may have impacted the complainant's reaction to being told to leave the area, and further interactions with the police following the arrest of his friend, for a reason that the complainant was

unaware of. Being under 18 at the time and Black, with the context of the multiple news reports of policing and police violence, it is reasonable to assume that he, and other young Black men and boys [could] be wary of police and may be more resistant to engaging with officers. The investigating officer has also obtained a lived experience account, which highlights the lack of cultural awareness and officers not recognising the impact of Black men being disproportionately policed and therefore likely to challenge the police. Rather than listen to them and understand the reasons, officers tend to see this as a challenge to their authority and resort to using powers, with matters escalating quickly.

The lived experience account was obtained from a member of the community engagement team, with experience of the historical context and current climate of policing and Black communities, both locally and nationally. The incident occurred during the time of the Black Lives Matters protests, which were widely reported. Therefore, the impact of this and views about the police response were considered as relevant contextual information.

Reflective Practice

Reflection is an integral part of the ethos of the complaints system since the reforms in 2020. While it has always been encouraged, it is now enshrined within the legislation through the Reflective Practice Review Process (RPRP) and the use of reflective practice outside of [Part 6 of the Police \(Conduct\) Regulations 2020](#).

Please refer to the [IOPC Statutory Guidance, Focus issue 21 on RPRP](#) and [Home Office Conduct, Efficiency and Effectiveness: Statutory Guidance on Professional Standards, Performance and Integrity in Policing](#) for information on when reflective practice would be an appropriate outcome of the complaint handling process and other considerations.

Participation of officers

A major obstacle to effective resolution, and changes to attitudes and approaches, can be the lack of willingness of the subject of the complaint to consider the impact of their actions - and how they might act differently next time. Quite often, the mere mention of the word discrimination can create a barrier and result in a defensive attitude from the officer. When a complaint is made about race discrimination, this can give rise to a fear of being labelled a racist. It is for the complaint handler to determine whether the person's actions were motivated by race discrimination and sometimes, it will be clear that they do hold racist views. Where this is the case, the level of discrimination will be handled at the most serious end of the scale and would not result in an outcome of referral to RPRP.

The RPRP process is designed to deal with low-level conduct issues where it is felt appropriate that reflection and change in approach would be the most effective remedy. The process requires willing engagement and participation from the officer and should be seen as an opportunity to

learn and improve - rather than as something that is being imposed on them.

Where reflective practice is considered appropriate, there is an opportunity for the officer to reflect on how, and why, their actions may have been experienced as discriminatory and, to consider what could be done to address or avoid this in future interactions.

Role of supervisors

The role of the supervisor is crucial in this process to offer leadership and direction, particularly in cases where the way forward is to develop the most effective measures to encourage a change in attitude or behaviour. For complaints about race discrimination, it is vital that the supervisor has an appropriate level of cultural awareness and understanding of the impact on the complainant. Through conversations with forces and complaint handlers, it is clear that in some areas there is a gap in awareness of cultural issues and sensitivities. Where this is identified, it is important that supervisors seek assistance and advice from both the internal and external resources that are available. Cultural competence is something that is built up gradually and should be revisited periodically. Significant time and effort is needed to ensure a sufficient level of knowledge to deal with issues that may arise. Getting advice from colleagues, specialist discrimination or diversity teams, staff associations, or people with lived experience, can greatly assist to deal with an immediate concern. It can also help to improve cultural competence so that next time, the supervisor is better equipped to develop strategies to address the matter with confidence.

Section Two of this guidance provides some examples of approaches that could be considered, to help develop individual cultural competence.



Ask yourself:

When would learning and reflection be an appropriate outcome?

- As the outcome of any form of complaints handling
- As part of the reflective practice review process
- Where officers need to understand how their actions were perceived or experienced as discriminatory and how this may have affected the interaction and damaged trust and confidence
- To recognise the discriminatory impact on the complainant
- To explain the wider context of policing and how it may have influenced the interaction between the police and complainant
- To understand the historical events that might have led complainants to have a low level of trust in the police – or a hostile response to being stopped
- To encourage a change in attitude and behaviour
- To help develop an individual's cultural competence

To reflect on how things could have been done differently and better.

Section Two – Initiatives and practices

Extensive consultation with various stakeholders has taken place to improve the way in which racial discrimination, within cases, is handled, including with: Professional Standards Departments (PSDs); Local Policing Bodies (LPBs); community outreach workers; equality, diversity and inclusion leads; learning and development leads; training managers and academics. Through these conversations, it is reassuring to see that real efforts are being made to improve the handling of complaints involving race discrimination, with the use of innovative approaches and practices.

In terms of complaint handling, the following challenges can have a significant impact on how matters are progressed and, in turn, their impact on public confidence in the complaints system:

- Low representation of ethnic minorities in the workforce, and PSDs.
- Narrow diversity of thought, as a result of the above
- Disproportionality in grievances, disciplinary and performance processes
- A negative culture where offensive/racist remarks are dismissed as banter or where

staff are not empowered to challenge the inappropriate behaviour of colleagues

- Limited or lack of in-depth or meaningful training opportunities

This section will look at some innovative or established models that forces have employed, or are developing. In many cases, the long-term impact of these strategies will take time to evaluate - but should be showcased with a view to revisiting them in the future to review their effectiveness.

Sharing the work being undertaken can demonstrate how some forces are approaching engendering change to both culture and practice. Where this is available, details of the impact have been mentioned, including anecdotal feedback from the force in question. It is encouraging to see the efforts being made to drive improvement and will hopefully inspire others to review their own force practices and approaches. The practices have been grouped into themes, to allow you to access the range of tools that could be useful to draw upon and adapt - given the individual structures of each force.

1. Promoting cultural competence through internal engagement

Cultural competence is a person's ability to fully understand, communicate and interact with people from different cultural backgrounds. It is more than just being respectful of other cultures or being aware of the customs and traditions of specific cultures. It involves being aware of your own views of the cultural world, differences between cultures and how to acquire cultural knowledge. In the area of complaints handling, being culturally competent can help to identify and understand a person's cultural beliefs and principles in order to shape positive interactions, inform decision-making and communicate effectively.

Internal engagement with colleagues, to seek advice and guidance that assists and improves

decision-making can significantly benefit those handling race discrimination complaints. It has many benefits. It can:

- help to develop the cultural competence of complaint handlers who have experienced limited exposure to, or lack an understanding of why certain behaviours are felt to be discriminatory.
- ensure that the relevant inclusion and diversity standards and legislation, and their impact on complaints, are properly understood – and met.
- direct handlers to additional resources, both internal and external - from community members to Independent Advisory Groups

(IAGs), and to published reference material and legal precedents.

- implement checks and balances throughout the handling, to ensure that disproportionate decisions are not made – consciously or unconsciously, helping to guard against discriminatory bias.

Whilst it is important to seek the perspectives and experiences of others who understand race discrimination, it is vital to remember that experiences, and any resulting feelings, are entirely subjective and will differ for each individual person - dependant on their own temperament, history and potential trauma.

i. Diversity Team input

Kent Police has created a specialist Diversity Academy, which they have told us is the first academy in England dedicated to diversity, equality and inclusion. Through the academy, the force has created a network of 150 single points of contact (SPOC) who reflect all of the different protected characteristics. This is a voluntary pool of staff. Complaint handlers and decision-makers can approach the academy for guidance. This can range from cultural advice to views on themes in operational policing, such as stop and search, use of force and hate crime.

The role of the SPOC is to provide advice and drill into the wider context around the encounter or incident they are being asked to comment on. It would be the role of the academy, rather than the SPOCs, to feed into the decision-making process if approached by PSD.

ii. Staff Networks

In another force, the PSD places a large emphasis on relationships with staff networks. The PSD contains SPOCs from staff networks who are engaged in key areas. For example, they carry out collaborative work on addressing disproportionality where they consider available data, drawing comparisons in terms of workforce representation and the outcomes of complaints - against staff from ethnic minority backgrounds. Using this process, they were able to justify

The experience of the complainant should remain the key focus, in the context of the incident they are complaining about. Their experience and the personal impact of their interaction with the police is most essential to the complaint handling, with the wider views and perspectives providing valuable contextual information. For the benefit of sharing a wide range of practices, this section also includes information on a specialist IOPC team, which has been established to support the organisation to improve its own handling of discrimination complaints and conduct matters. Here are some examples of different strategies being used by police forces.

West Yorkshire Police has introduced a pilot scheme to improve early decision-making in the handling of internal conduct matters. Staff from the Diversity, Equality and Inclusion (DEI) team feed into a broad range of aspects of the handling. For example: decisions regarding severity assessments; identifying nuances in matters of complaint; providing challenge to decisions by complaint handlers and appropriate authorities through consideration of diverse perspectives. On occasion, there can be disagreement and robust conversations. However, the notable impact is a cultural shift in enabling complaint handlers to look beyond the requirements of the legislation that must be applied, considering the impact of the nuances and wider context of the individual's experience. This can potentially elevate the seriousness of the conduct matter.

the outcomes and used this joint platform with the force's Black Police Association (BPA) to share this information through courageous conversations. The PSD have shared this message at BPA events through talks on stop and search, and Black History events, where community leaders were in attendance. In addition, the BPA acts as a critical friend and may be asked to feed into early decisions around initial handling and severity assessments.

iii. Seeking views of those with relevant lived experience

Avon & Somerset Constabulary has developed a process to incorporate insights from colleagues and critical friends with lived experience of discrimination, at various points of the complaint handling process. The process offers different avenues for complaint handlers, in terms of who they might wish to approach for their perspective, either within or outside the police. For example, they might choose to consult the relevant Staff Support networks; the Inclusion and Diversity Outreach network; or the Independent Scrutiny Panel (made up of 10 external members). The lived experience accounts gathered become part of a wider suite of tools. Most notably, they help to build an understanding of perceptions and more nuanced complaints and, can inform what other enquiries are reasonable. For example, identifying the relevant comparators to draw on. The Chief Inspector, who has oversight of the

disproportionality portfolio in their Professional Standards Department (PSD), has appointed a tactical advisor within PSD. The advisor takes responsibility for recruiting and selecting the appropriate lived experienced practitioners, provides advice and maintains links with internal teams and community groups.

Anecdotally, the accounts can help complaint handlers - and the staff responsible for quality assurance - to understand the impact of an experience. As well as helping to improve the quality of decision-making, the long-term aims are improving the cultural competency of the PSD – while also boosting confidence in the community. Additionally, this approach can help officers understand disproportionality, the impact of their actions and, how interactions can be shaped by personal experiences or high-profile incidents and encourages reflection.

iv. IOPC Discrimination Subject Matter Network (SMN)

The Discrimination SMN is a multi-disciplinary team with representatives from a range of internal departments, including: Operations; Legal; Policy; Oversight; Training; Stakeholder Engagement; Communications and Media. Each member brings their own professional expertise and personal experience. By sharing this knowledge, the team has established a combined understanding of the issues affecting the handling of discrimination complaints.

The network does not have a decision-making role in cases but, provides expert technical and policy advice to IOPC staff handling investigations, or reviews and appeals that involve issues of discrimination. This includes case-specific advice on a range of matters. For example: drafting Terms of Reference; assessments of seriousness; identifying lines of enquiry and advising on the best approaches to analysing and weighing up evidence. The team also helps to identify

opportunities for learning, supports the development of learning recommendations and, advises on communicating the findings of our cases. The network can provide insights into the cultural or historical context of an incident where discrimination is a factor – also drawing on insights and expertise from other internal staff networks, and from external stakeholders - including the IOPC's National Advisory Group for our race discrimination thematic work.

Since the launch of the network, the team has produced internal Decision Maker guidance, alongside bespoke training sessions for staff, including the sharing of good practice case studies. They have also been involved in the development of key learning products aimed at improving policing practice, such as the [IOPC National Stop and Search Learning Report](#) (April 2022) and the [Learning Report for Operation Hotton](#), which considered issues of discriminatory culture in a team at Charing Cross police station in London.



Ask yourself

How do you promote cultural competence within your teams?

- Do you have the channels in place needed to allow complaint handlers to approach the PSD, or specialist discrimination teams, for case-handling advice?
- What mechanisms does your force have in place to seek expert opinion, from people with diverse views and perspectives, and lived experience of discrimination? What is the impact on complaints handling?
- How do you ensure that you have a fair system in place to eliminate any burdensome or tokenistic requests for opinions?
- How do you ensure that the people being approached are empowered to provide the most effective advice and expertise - to provide the right challenge?
- How do you ensure that the people you approach for views are supported and that any impact on their well-being is managed?
- What mechanisms are in place to allow complaint handlers to share any cultural knowledge they have gained with their colleagues and peers?

2. Training, education and access to other resources

It is important to note that the most impactful training, and/or learning opportunities will not *only* focus on how to handle complaints involving race discrimination. This of course should always be at the core, but will be most effective when provided as part of a package that includes other key areas, such as: understanding culture; the communities the police serve; the history of policing these communities and, anti-racism.

Many forces have told us that there are limited opportunities for training in the handling of complaints featuring discrimination, outside of the routine courses on equality, diversity and inclusion and 'unconscious/ inherent bias'. Where training is available, it is often delivered through remote learning. The impact of such learning can be diminished - without the benefit of hearing directly from people

i. Inclusion training

Hampshire Constabulary provides a day-long package, which looks at case studies and relevant issues for discussion - asking the delegates how discrimination impacts their

who have been victims of discrimination or from the ability to have face-to-face discussions. There can be heavy reliance on our [Discrimination Guidelines](#) and more experienced colleagues. It is recognised that it is not always within the PSD's gift to organise and implement training. However, it can be beneficial for the PSD to develop relationships with internal teams that can influence the force training programme, such as; the learning and development team, training teams, community leads and equality and diversity teams. These links can help to feed into considerations around staff training and allow for a collaborative approach to meeting training needs.

Here are some examples of more interactive and in-depth training, provided by some of the forces we spoke with:

day-to-day work, and how things can improve. There is an emphasis on educating staff on preferred language and terminology, being open and accepting the feedback if they have

used an inappropriate term, then learning from it. Hampshire Constabulary recognises that sometimes a person can use inappropriate or incorrect language, and that this can be unintentional. However, it is important to

ii. Sharing of personal experience

In a courageous move to demonstrate the impact of getting things wrong, staff from Hampshire Constabulary have made short videos about how they have been treated in the workplace - then providing the tools needed to get things right. Externally, following on from a poor experience with the police, the family

iii. Allies Programme

This initiative, also introduced by Hampshire Constabulary, is designed to give staff confidence to step up and step in when they see or hear something they believe is wrong. It is designed to move their critical mass of

iv. Training on banter and micro-aggressions

We have learned about different approaches, from a number of forces on the training they have provided in this area. In one example, staff from Hampshire Constabulary reported that they had tolerated persistent behaviour from colleagues over a period of time, until the point where it would be tolerated no longer. There is arguably a lack of understanding of micro-aggressions and the cumulative impact they can have on an individual, because often, they can be viewed as subtle, isolated comments that can be brushed off. This force has been working to educate their staff using lived experiences that highlight the significant impact such comments can have over a period of time.

British Transport Police have been looking at how ideas are formed, how individuals might get socialised into groups and how behaviours change depending on surroundings. All new recruits receive training on inappropriate behaviour that crosses the line. On the topic of 'banter', the training discusses the difference between a good-natured conversation that may be used as an appropriate outlet for emotions,

understand the impact of such language, taking the steps needed to learn and to move forward. The focus of these sessions is to share experiences, increase equality and inclusion knowledge and empower individuals.

of a complainant is working with the force. Similarly, they will be putting a video together to discuss their perceptions, experience, and the impact this had on them. The force has found that where staff can relate the principles to something real, it has much more impact than a theoretical discussion.

staff who are generally passive in this space to an active role, providing them with the confidence and in turn a voice, to challenge any inappropriate behaviours.

versus comments that belittle or target individuals or groups of individuals. People are asked to reflect on things they might say, or joke about, when it has become normalised within a team, highlighting how for others it is offensive. Conversations start by explaining where beliefs and thought processes come from and emphasise that anyone can change the way they behave. They have taken practical steps to maximise receptiveness to the existence of the problem and any pre-conceptions that may exist. For example, staff will not attend sessions in full teams and ranks will be mixed.

Hampshire Constabulary has reported that the combination of approaches has had an impact on the calling out of inappropriate behaviour - having received the following anecdotal feedback from staff. *Supervisors have been prompted to ensure they are having the right conversations at the right time, before matters escalate. The PSD are being approached more and more for advice. There has been an increase in the use of the confidential reporting line with some conduct matters identified.*

For the less serious complaints, people are providing open and frank accounts with more open and honest conversations between officers and their supervisors. There are very few individuals who refuse to give an account for a low-level complaint now, with officers more willing to engage. To aid this process, they have

v. Toolkits for complaints handlers

The Metropolitan Police Service has developed a toolkit to support complaint handlers. It contains a case study at the beginning that is then used throughout the toolkit - showing a case handler how they would investigate that case specifically. The chapters look at different aspects of complaint handling, including recognising and addressing inherent bias and also include links to relevant reference material (such as ACAS online tools and free university

created a document that gives an individual the opportunity to respond to an allegation. The vast majority of subjects complete this document, with many admitting their shortcomings and reflecting on their behaviour. This links in with the [Reflective Practice Review Process \(RPRP\)](#).

training packages). The toolkit features a chapter on how to apply our [Discrimination Guidelines](#) and incorporates a Frequently Asked Questions document (FAQ). Given its practical value for officers and complaint handlers, the toolkit doubles up as the force policy. Local area supervisors find the toolkit very useful - as an interactive reference guide for their team of complaint handlers, particularly as a means to support new staff.



Ask yourself

What steps are you taking to educate and support staff to understand race discrimination within complaints handling, and the wider historical context?

- How do you ensure that the appropriate people are selected to deliver training on race discrimination? Is the training team provided with up-to-date knowledge of the issues and how they might present themselves locally?
- What does your force do to educate staff about the history of policing in ethnic minority communities - within both the local and national context?
- What does your force do to educate staff on the impact and trauma caused by the misuse of policing powers, and, the impact this has on trust, confidence and reaction towards the police in the most affected communities?
- Does the PSD and/or training team provide a comprehensive set of resources to complement training and assist complaint handlers in their decision-making? What is included within the available resources package?
- How do you ensure that new staff are provided with training opportunities and support at the earliest opportunity?
- How do you create safe spaces for open discussion? Do you use relatable case examples and link into staff networks and other stakeholders to incorporate accounts of how discrimination is experienced?
- How do you assure yourself that that the training being delivered is having the desired impact and improving the handling of complaints featuring potential discrimination?

3. Diversity of staff within PSD and the wider workforce

Many external publications have featured the issue of workforce representation of staff from ethnic minorities. Most notably the [Cain Report 2019](#), the [Home Office Workforce Data report](#) and more recently the [Police Race Action Plan](#).

The Home Office Workforce Data report found that one-third of forces had no ethnic minority officers, or staff working in Professional Standards Departments (PSDs) in the year ending March 2021. The National Black Police Association have asked forces to reflect on representation of ethnically diverse staff in specialist positions, including within PSDs and learning and development teams - both of which are pivotal to improvements to complaint handling.

Forces have cited some challenges in recruiting staff from ethnic minorities to the PSD including; choices being restricted to a small pool of staff, not wanting to appear tokenistic and ensuring that staff from ethnic minority backgrounds are not relied upon too heavily as the 'go to person' for all matters relating to race discrimination.

Whilst complaints of race discrimination can

i. PSD advisor role

Lancashire Constabulary has introduced a PSD advisor role, which sits at Inspector rank, to attract a wider pool of candidates. The role covers all protected characteristics but prioritises ethnicity, religion and race. Its purpose is multi-functional and focuses on strengthening internal links with; local command units, staff networks, human resources, media and vetting. The role is also responsible for understanding disproportionality and wider policing matters. The advisor is from an ethnic minority background and offers views on decision-making - from initial steps to outcomes. Where appropriate, the advisor provides guidance based on lived experience and previous experience of working with communities. The force has found the role provides both

be handled both inside and outside PSDs, appropriate authorities sit within the remit of PSDs who provide the overall direction and support to all complaint handlers. Therefore, given the overarching leadership of the PSD, it is important that the team reflects the society it operates within. To ensure this happens, a drive is needed to improve diversity within the workforce, to recruit to a range of roles and importantly, ranks – ensuring representation at all levels. A lack of diversity within the PSD can sometimes hamper the ability to have open discussions early on and reinforces the need to have good internal relationships in place (as discussed in the section above regarding internal engagement). Conversely, where PSDs are more ethnically diverse, they are able to enhance the cultural competency of the team through regular and normalised discussions - empowering staff to educate themselves and raising challenge in areas that may otherwise be missed.

Below are some examples of the force initiatives in place to tackle this issue, alongside opinions on the impact of such approaches.

complaint handlers and complainants with added confidence. The advisor carries out proactive work with staff networks to horizon scan and anticipate what issues might be fed into the PSD. For example, the omission of protected characteristic data from complaint forms and the impact of this on information analysis. They also conduct quarterly reviews of all discrimination complaints to identify themes and trends. For example, following on from a review, they created and delivered training to complaints handlers to allow them to better identify complaints about discrimination, where the discrimination element has not been obviously articulated. The training outlined the need to draw out information, in order to better understand the complainant's perspective.

ii. Complaints Manager role

In West Yorkshire Police, and formerly Nottinghamshire Police, the person leading the complaints team is from an ethnic minority background. In these forces, diversity at a senior level has been particularly beneficial when discussing complaints based on an individual's experience - with the added value of adding lived experience when considering the cumulative evidence. The PSD teams are diverse beyond race and ethnicity, which promotes a good team dynamic and an improvement in cultural awareness and competency. Peer to peer reviews are

standard practice and the environment allows for honest and candid conversations about race and discrimination matters - knowing that it is a safe space for learning. For example, case discussions can lead to informal conversations about micro-aggressions and how sometimes, it can be an indication of poor behaviour, attitude or disrespect, while at other times it can be due to ignorance or a lack of cultural competence. Staff being open-minded and confident to provide their views allows for robust challenge within the teams.



Ask yourself

How does diversity, or a lack of diversity, within your team impact on your role?

- What steps have been taken to improve the diversity of the PSD and what differences have you seen?
- Have you experienced a disproportionate reliance on ethnically diverse staff? If so, what steps would you take to minimise the impact on the individual while ensuring you have access to a diverse range of views?

4. Disproportionality in disciplinary and performance processes

There are longstanding concerns, both inside and outside the police, about disproportionate and harsh treatment of ethnic minority staff within the police disciplinary system. This has prompted police forces to conduct research and analysis into why this might be happening and to develop a robust response. We talk elsewhere in this section about the forces' efforts to recruit ethnically diverse individuals to establish a workforce that is representative of the communities they serve. If people recruited to the police then find themselves facing disproportionate treatment in the disciplinary and performance processes, this can impact negatively on retaining them within the workforce, their desire to work in the police and wider initiatives to recruit from the affected communities.

It is acknowledged in the [Police Race Action Plan](#) that there can be a nervousness, or

reluctance, on behalf of supervisors or local complaints handlers to handle complaints against staff from ethnic minorities. This can arise through a lack of cultural awareness, a fear of causing offence to the person subject of the complaint and/or a fear of being seen as racist. This can then result in matters that are suitable to be handled through RPRP being referred to the PSD for an elevated level of handling that is disproportionate to the level of seriousness of the complaint. As such, there is then the potential to result in a formal sanction that is also disproportionate.

In such instances, as well as redirecting the matter back to the supervisor where RPRP is appropriate, it is important that the root causes are understood and addressed to ensure that supervisors feel confident and empowered to overcome any cultural barriers - whether this be achieved through training or other form of

support. Forces should ensure that the right mechanisms are in place to support supervisors and be clear on who should perform this role. For example: should it be the role of the PSD; delegated appropriate authority; training or learning team; community outreach team; or - a combination of these?

In order to ensure that the complaints and misconduct procedures are fair, it is important

i. Role of Diversity Academy

Another key role of Kent Police's Diversity Academy is the addressing of disproportionality in complaint handling, through data analysis of internal processes and grievances. For example, examining whether matters involving staff with protected

ii. Blind assessments

West Yorkshire Police are planning to pilot the redacting of complaints that come into the PSD for decision-making, so that initial assessments are made without knowing any personal data about the individual - including their protected characteristics. It is hoped that this initiative could be useful

iii. Police Race Action Plan

The purpose of [this plan](#) is to improve policing for Black people – both internally and externally. As part of the overarching work, there is a focus on understanding and taking action to remove any racial disparity that officers and staff experience in the disciplinary process. The plan sets out a number of commitments to achieve this, including the development of:

- guidance around disciplinary panel chair selection and creating an ethnically diverse panel
- anti-racism training for panel members

that safeguards are built into the complaints handling process - from making initial assessments, to the final outcome.

Below we have featured some force initiatives and have included details of national work being led jointly by the National Police Chiefs Council (NPCC) and the College of Policing (COP). Both aim to understand and minimise disparities in the complaints handling process.

characteristics are more likely to be formalised - despite being suitable for handling by line managers and supervisors. One of the focus areas of this work is to remove fear amongst managers, encouraging more meaningful one to one conversations.

to analyse whether disproportionality exists in early decision-making, whether the level of service received by complainants from ethnically diverse backgrounds differs and if so, how it presents itself - particularly in cases where complaints do not feature racial discrimination.

- fair and equitable processes for police staff
- best practice examples on how Black officers and staff, and scrutiny panels feed into the PSD's decision-making process
- guidance around using local Black Police Association (BPA) members in decision-making in complaints and misconduct

The commitments will be monitored through collecting and analysing data and measuring the impact against the principles and guidance being developed.



Ask yourself

What steps are you taking to understand and address disproportionality within complaints handling?

- Has your force carried out, or planned to carry out, a local analysis of the experience of ethnically diverse staff in the disciplinary process? If so, what actions do you propose to take in response to the findings?
- Has your force made any changes to the misconduct/complaints process to try to eliminate any disparities faced by ethnic minority staff?

5. Community engagement and external scrutiny

We mentioned earlier that understanding the communities we serve is essential in being able to understand the wider context surrounding a complaint and, as such, provide confidence that you are able to effectively handle race discrimination complaints. Community engagement can not only enhance cultural awareness but, can also present an opportunity to build the mechanisms needed to listen to concerns from a diverse range of people - particularly those most affected

by disproportionality.

Some forces have built strong relationships with their community outreach teams to ensure there is a link between communities and complaints handling. Others tap into more structured processes in place, through Independent Advisory Groups (IAG), scrutiny panels or Local Policing Bodies (LPB), for example.

Here are some examples of approaches being trialled or embedded.

i. Collaborative working between PSD and community engagement teams

Within Lancashire Constabulary, the Equality Diversity and Inclusion (EDI) team acts as a conduit between the PSD advisor and communities. The team uses PSD data and statistics as an evidential basis from which to facilitate conversations and build relationships. Part of the work with communities is carried out by the force's Community Cohesion Units, who will review hate crimes daily, looking for repeat victims and/or other issues - discussing them directly with the communities affected. Any matters relevant to the PSD will be fed back to them via the EDI team. This is an example of implementing a two-way dialogue and developing a practical system for linking community engagement with complaints handling.

In another example, Avon & Somerset Constabulary's PSD engages closely with a community outreach programme. Part of this engagement includes working with

communities and charities that provide support to complainants with protected characteristics, through practical workshops - to improve their understanding of the PSD and show them how to navigate the complaints system. There are strong links strategically with: PSD senior leaders; the Black Policing Association; key community members; the community outreach team and the PSD, allowing for an effective exchange of information and ideas. Internally, one member of the PSD previously worked for a community organisation and was a critical friend to the police. As such, he provides the benefit of having existing links to community groups and leaders. Alongside engagement work, the outreach team are delivering training to police staff on how to develop their cultural competence, recognise their own biases and demystifying cultures and beliefs. Additionally, the outreach team provides 'safe space' sessions, which provide a comfortable

environment to discuss issues such as Black Lives Matter, 'white privilege' and language.

In the above-mentioned Diversity Academy, Kent Police operates a programme of community engagement which seeks to understand new and existing communities. They adopt a multi-agency approach and support events in an environment that suits the needs of the audience. These events cover a multitude

of issues including; gangs, county lines and violence against women and girls. On a practical level, the team will review recommendations following on from a complaint, building them into positive further interaction with a complainant. In one example, such interaction with the complainant prompted them to want to work with the force to educate their staff and help them to improve.

ii. Independent Advisory Groups, scrutiny panels and boards

Kent Police's Diversity Academy is represented in a range of Independent Advisory Groups (IAG), Independent Police Advisory Groups (IPAG) and Independent Review Scrutiny Panels (IRSP) - including stop and search, use of force and hate crime. Members of the community are invited to be representatives on the IPAG. On occasion, the PSD will use the IPAG as a critical friend, before the final decision is made for more serious complaints. In order to maintain the momentum and act on issues and themes arising from these panels, they will speak with complainants and community groups through scenario based debrief sessions.

In another example, Avon & Somerset LPB provides external scrutiny through its Independent Residents' Panel (IRP). The panel consists of eight independent panel members who are all volunteers representing communities of the geographical area. Their role is to act

as a critical friend to the Police and Crime Commissioner (PCC) and to the force, by providing feedback on completed complaint files to the LPB and to the PSD. The IRP reviews complaints against the police from a local citizen's viewpoint - in consideration of evidence that is available to them. In one meeting, a panel member highlighted that racial profiling does not always present itself through language or overt behaviour and that there can be other indications. They challenged the force on how they address these more nuanced complaints. The force responded by explaining the training they make available to staff on conscious and unconscious bias and how the [Discrimination Guidelines](#) is used. In addition, the IRP invited the force community outreach team to explain their role in improving the 'cultural intelligence' of the force.



Ask yourself

What steps can you take to maximise the benefits and value of community engagement?

- Do you have an IAG? If so, do they represent the communities that are most affected by disproportionality, in policing? Are there any barriers to securing the involvement of the most appropriate representatives? For example, location and time of meetings, expenses, vetting issues. If so, how are you seeking to overcome them?
- How do you ensure that panel members are sufficiently informed to provide meaningful input, for example, training and knowledge of subject matter and policing?
- Does the IAG have a relationship with the PSD? What is the impact of the IAG on complaint handling?
- Do the external panels or working groups you engage in provide sufficiently robust challenge?
- How do you demonstrate to the panels the impact of their feedback?
- How do you provide assurance that feedback has been acted upon? For example, does the work of your stop and search scrutiny panel feed into how stop and search complaints are dealt with?
- Do you have a strategy for engaging with ethnically diverse communities?
- Do you use local staff networks to support and enrich your engagement?

6. Internal scrutiny

In addition to external scrutiny, it is important to have mechanisms in place internally. This allows the implementation of checks and balances to ensure that decisions are sound and fair and, can identify changes that need to be made in a timely manner. Most complaints departments will have formal processes around quality checking of complaint handling before

decisions are made. However, many have a cyclical approach and have built in additional layers of quality assurance - after decisions have been made to capture areas for improvement. Other forces will scrutinise decisions via discussion forums, and panels, to address wider disproportionality in areas that typically attract complaints.

i. Improvement and Scrutiny Panels

Lancashire Constabulary runs an Internal Continuous Improvement Panel. Panel members are guided through the evidence to examine the case, and where necessary, feedback is given to the officer. Feedback can be delivered by anyone, from the Federation representative to the PSD advisor. The PSD advisor will then take away data relating to learning or trends and present any issues to the Learning and Development team. In one example, poor de-escalation techniques were identified as an issue

and the Learning and Development team created and rolled out bespoke online training for staff.

West Yorkshire Police take their findings on equality and diversity to an Independent Scrutiny Panel, led by an Independent Chair and attended by all staff associations and relevant trade unions. They also carry out dip samples of cases every six months and report on the findings. The panel discusses the cases and whether or not the decision was correct. Following this, all feedback is taken

into consideration and lessons to be learned are identified. The PSD keeps a log of all discussions, and the training and engagement

officer collates formal learning from the IOPC, LPBs and the service review team, and disseminates any relevant messages.

ii. Ethical dilemmas/Ethics Committees

As part of a wider programme - focused on changing attitudes and culture and encouraging officers to challenge inappropriate behaviour - Hampshire Constabulary runs an ethics committee. This is attended by IAGs, academics, ethics leads from command areas and operational officers/ police staff equivalents. The committee is diverse, with attendees encompassing a wide range of protected characteristics. Each session will discuss ethical dilemmas and aim to reach a tangible outcome. For example, providing practical advice that is relevant and, can feed into a repository of example scenarios and dilemmas. Outcomes are then reflected in continuous

professional development conversations, and training. Hampshire Constabulary are being proactive in encouraging staff to come forward with dilemmas and questions, in order to make it relevant and impactful on an individual level. They have also introduced a 'dilemmas box' to open up future conversations, which is gaining traction. The committee is run by an independent chair who gives an extra layer of transparency and is not afraid to ask difficult questions. Where recommendations are made, they are sent to the relevant person within the force and entered onto a tracker - to demonstrate what the advice is and what has been achieved.

iii. Public contact dashboard

Lancashire Constabulary has set up a public contact dashboard. This is used by the PSD as an analysis tool to identify which areas, stations or teams are attracting discrimination complaints. This will inform their understanding

of demand and demographics, and then drive how they manage their resources - whether it be investing in additional training, a focus on engagement with certain community groups or building in support from the PSD.

iv. Quality Assurance

The Metropolitan Police Service has implemented two layers of quality assurance whereby complaint and conduct decisions are examined by local supervisors, as well as the Specialist Discrimination Unit. The quality assurer will check the tone of complainant letters, as well as content. In addition, data is collected on all cases that undergo such a review. Cases are then categorised into those of

a good quality, those where some amendments were required and those where the quality was poor - or presented a number of issues. This information is analysed per area and key themes are extracted, for example, poor use of comparators. These themes are then shared with the learning team for follow up work, either with specific areas or on a wider basis.



Ask yourself

What measures do you have in place for internal scrutiny of complaints handling, and how effective are they?

- Where you have structures in place to quality assure discrimination cases, how do you set the criteria for cases that meet the threshold for quality assurance? Who is involved in this decision – LPBs, IAGs, scrutiny panels?
- For those that meet the criteria, how do you ensure that those cases are correctly identified and not missed? For example, are cases identified from complaints recorded on Centurion or is it the responsibility of the PSD/Appropriate Authority (AA)/ complaint handler to send cases through the quality assurance process?
- Does the supervisor/AA consider the full case papers when completing the quality assurance? If not, what steps do you take to satisfy yourself that the decision is reasonable and proportionate?
- How do you ensure that the layers of quality assurance aren't superficial and that they are leading to tangible improvements in quality?
- What mechanisms do you have for providing individual feedback and sharing insights more widely?

Next steps

It is hoped that in setting out these initiatives, forces and LPBs will be encouraged to develop and implement new, or refined ways of working to improve their handling of complaints involving race discrimination – while promoting ways to improve the cultural competence of complaints

handlers and decision-makers. The approaches that have been featured are a great testament to the positive and varied work being done. Follow up work will be planned to measure their impact, to see where differences and improvements have been made.

SUPPORTING INFORMATION

The questions in this section reflect some of the most common types of questions the IOPC receives in relation to the handling of complaints involving race discrimination. They have been anonymised so they do not reflect any specific case. The responses provided are correct as of December 2022.

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FAQs relating to the handling of complaints involving racial discrimination

Accessibility

Q: When providing a right of review in the outcome letter - are we obliged to list all methods of how a review can be submitted to the relevant review body?

A: There are no legal requirements to provide any information other than the identity of who the relevant review body is, the time limit for applying for a review and what the complainant should include in their application. When the IOPC is the relevant review body, the Appropriate Authority (AA) should also explain the reason why.

However, in the spirit of providing access to the complaints system, and to avoid making any assumptions of the complainant's circumstances and contact preferences, it is considered best practice to provide full contact details of the relevant review body at the time of providing a right of review.

Q: Is there an expectation, where a complainant's first language is not English, for translation services to be provided?

A: Although there is no legal requirement to translate documents or provide an interpreter for other languages, except where that language is Welsh, there is an obligation under the [Equality Act 2010](#) to make sure the

actions of any public body are not directly or indirectly discriminatory.

If from initial contact you become aware, or the complainant notifies you, that they have limited or no command of English and their preference is to communicate in the language of their choice, it is reasonable to expect both forces and Local Policing Bodies (LPB) to consider the use of translation services for the handling of their complaint. This includes making initial contact to better understand the complaint and any subsequent review. Providing such services may assist in eliminating direct or indirect discrimination, advance equality of opportunity and foster good relations.

It is possible that if translation services should have been used and were not put in place, then the handling of the complaint could potentially be deemed to have been unreasonable and disproportionate - as the complainant may not have been afforded the opportunity to express themselves fully as part of the initial contact with the force. It is also possible the complainant will not be able to sufficiently understand the outcome of the complaint. There is also a risk of the complainant's concerns and feelings being lost, and the feeling of mistrust of the police reinforced.

Experience of complaint handler to address discrimination complaints

Q: What considerations should be made when appointing a complaint handler or investigator to address a complaint of discrimination?

A: It is crucial that the complaint handler has a good understanding of the equality and diversity issues which result in race discrimination complaints being made.

They must have the appropriate skills and experience to be able to both apply *and*

evidence our [Discrimination Guidelines](#) effectively throughout their handling of the complaint - and in their outcome letter to the complainant.

Where possible they should also have a robust quality assurance process in place that can check and satisfy itself that:

- all aspects of the complaint have been identified and addressed

- enquiries have followed our [Discrimination Guidelines](#), including engaging with the complainant or their representative and the probing of officers' responses
- the rationale for any enquiries the complaint handler decides not to pursue is fully explained and is reasonable and proportionate
- where evidence does not support the complaint, that reflection and learning has considered what impact the officer/s

behaviour had on the complainant, why it did and whether a different approach could have alleviated the complainant's concerns at the time of the incident

- whether the right tone and wording has been used in the report and is free from jargon, inherent bias and defensive views by the complaint handler.

The IOPC also expects that the complaint handler would be fully up to date with their own discrimination training.

Engagement with the complainant

Q: If we have a strategy/protocol in place for handling contact with a complainant whose behaviour is considered to be unacceptable or unreasonable, does this replace your [Discrimination Guidelines](#); where it states it is encouraged that initial contact is made with a complainant?

A: It is for the AA to decide what measures or restrictions are put in place to manage contact from a complainant, where their behaviour is considered unacceptable or unreasonable. The [IOPC guidance for managing unacceptable or unreasonable complainant behaviour](#) provides suggestions on how that can be achieved whilst ensuring obligations under the [Equality Act 2010](#) are fulfilled.

However, any contact strategy should always ensure that the complainant still has access to the complaints system and can be treated fairly during the handling of their complaint.

For all complainants, access should include, but not necessarily be limited to:

- having the opportunity to expand on why they feel they have been discriminated against so that the complaint handler or investigator can better understand their complaint
- having the opportunity to agree and confirm what the complaint handling will cover so that discrimination allegations are not missed

- having the appropriate avenue to receive regular and meaningful updates on the progress of enquiries at least every 28 days, and
- receiving an outcome letter, which outlines: the right of review; the complaints that were agreed would be addressed; the enquiries undertaken; the rationale for any enquiries the complaint handler decides not to pursue; how the evidence has been considered and, where appropriate, any further enquiries that have been undertaken to probe or substantiate any information provided – with an explanation of the outcome.

It is possible that restrictions may mean the complainant cannot engage by one or more methods of contact, but there should always be at least one avenue which can assist a complainant to have appropriate contact. Where there is a contact strategy in place, it is important that sufficient time is given to the complainant to respond in the way they've been asked to make contact, such as only in writing.

Failure to engage, poor engagement, and/or not providing sufficient time for the complainant to respond has the potential to further exacerbate the situation by reinforcing the mistrust felt - undermining the complaints process. It is also possible that any review could be upheld and the matter returned for investigation/reinvestigation.

Q: Is it sufficient for the complaint handler to keep an internal record of what was discussed and agreed would be considered as part of the complaint handling? Or should this be followed up in writing with the complainant?

A: It is good practice, as part of early engagement with the complainant - to fully understand their complaint and decide how the information provided feeds into the terms of reference - to follow this up in writing, either by email or by letter, with the complainant.

Following this practice helps to manage the expectations of the complainant, sets out what will be considered, and allows the complainant to come back to the complaint handler if they feel any element of their complaint has been missed.

It is also important that there is an audit trail of what was agreed and what the complaint handling will address, as any absence of this information could lead the reviewer, in any subsequent review, to determine that parts of the complaint have been missed. This could result in the review being upheld and returned for re/investigation.

Chapter 11 of the statutory guidance

provides further information on keeping an audit trail.

Q: To what extent would you expect the complaint handler to deal with every point made in a lengthy complaint letter?

A: A complainant may provide a detailed letter of complaint, with background information about why they are complaining. It is important for the complaint handler to make initial contact with the complainant to agree what will (and will not) be looked at and addressed - and to manage the expectations of the complainant. If the complaint handler has reasons for not pursuing elements of the complaint, these reasons must be made clear to the complainant. This should be as part of the contact with the complainant during the course of the complaint handling.

The outcome letter to the complainant should also outline what was agreed with the complainant and which elements of the

complaint fall within the complaint handling. If elements of the complaint have not been addressed and there is no evidence to justify why, any subsequent review will consider whether the missed allegations have impacted on whether the outcome of the complaint is considered to be reasonable and proportionate. If it does impact on the outcome, the review may be upheld and the case returned for investigation, or reinvestigation if it has already been the subject of an investigation.

Q: If the complainant disengages from the handling of their complaint, how should I encourage them to re-engage with the process?

A: Engagement with the complainant is an important part of any complaints handling process. It is particularly important where complaints require the exploration of why they feel that attitudes and bias have contributed to police actions. Where a complainant started off engaging positively, you should establish the reasons for disengaging. Sometimes it could be that personal circumstances mean that the complainant is unable to pursue their complaint, or they are impacted by the trauma of the incident in question. If this is the case, it might not be appropriate to try to encourage them to re-engage. In this instance, it might be more appropriate to clarify with them the remaining options for dealing with their complaint. Conversely there could be practical reasons that are impeding communication, such as the complainant no longer has access to emails - yet they still want to continue with complaint. In these circumstances, other options of contact, such as a conversing by phone or via a friend or advocate should be offered.

However, where the reasons are due to a lack of trust and confidence in the police or the complaints system, assurances should be given that their complaint is being taken seriously and an explanation given of why their involvement is necessary and beneficial.

Be mindful that asking a complainant for details of their ethnicity for reporting purposes,

when initially engaging with them in order to progress enquiries, has the potential to be perceived negatively. Whilst the reporting data is important, it may be prudent to leave this to a later stage.

If a complainant is not happy with the progress of their complaint, the complaint handler should return to earlier discussions about the proposed lines of enquiry and what they intend to address - managing expectations of what can realistically be achieved. Sometimes, a reminder of why it is important to pursue their complaint, for example, to encourage reflection, changes of attitude, understanding of impact, and accountability - as well as demonstrating the difference their complaint will make - will be sufficient to persuade a complainant that it is worthwhile to remain involved in the process. Even if they do decide to disengage, this should not necessarily prevent a complaint handler from carrying out meaningful enquiries.

Referrals

Q: Should all conduct and complaint matters, where discrimination has been cited, be mandatorily referred to the IOPC?

A: No - not all complaints of discrimination will meet the criteria for mandatory referral. There are several grounds a complaint may meet to be referred as mandatory. The most common one, for complaints of discrimination, is where a two-part test must be applied:

- i. Whether the conduct constitutes a criminal offence or behaviour which is liable to lead to disciplinary proceedings, **and**
- ii. Which, in either case, is aggravated by the discriminatory behaviour on the grounds of one of the characteristics the [Equality Act 2010](#) protects.

It is important when assessing this two-part test that initial consideration is made as to whether the alleged behaviour, *without the discrimination element*, is serious enough to amount to a criminal offence or behaviour which is liable to lead to a disciplinary sanction.

Q: Should a review be upheld when there has been no communication between the complainant and the force, other than the complaint itself?

A: While we would expect the force to make contact with the complainant to seek their views on how their complaint should be handled, the key consideration with any review is whether or not the outcome provided to the complainant is reasonable and proportionate.

If the lack of contact has impacted upon the handling and outcome of the complaint, this may be a reason to uphold the review. For example, the allegations within the complaint have not been understood by the complaint handler and this impacted the subsequent handling. Alternatively, if the lack of contact has not impacted the outcome provided to the complainant, the reviewer should not uphold the review and may instead wish to raise this as an oversight issue with the force.

If it does, then the second part of the test is to consider whether it is alleged that discrimination was a reason for this behaviour. However, it will not be necessary to assess the gravity of the discrimination element at this stage - only that discrimination is alleged as an aggravating factor.

If the complaint does not meet both parts of the test, then it will not meet this part of the mandatory referral criteria.

In these instances, the AA would be expected to consider whether any other parts of the mandatory referral criteria apply, before deciding whether it needs referring or not. [Chapter 9 of the IOPC's Statutory Guidance](#) and [issue 9 of Focus](#) provides more information on the referral criteria.

Where there is doubt about whether a discrimination complaint should be referred, we would either encourage referral, or suggest the AA seek our advice.

Discrimination matters that must be investigated

Q: Should all discrimination complaints be subject of an investigation?

A: The circumstances in which an investigation is required are:

- there is an indication that the behaviour complained about may amount to a criminal offence, may justify the bringing of disciplinary proceedings, or, may engage Articles 2 or 3 of the European Convention on Human Rights (*'indication' is taken to have its plain English definition*)
- a referral was made to the IOPC – or the IOPC treated the matter as having been referred – and they determined that it should be investigated

- the IOPC determined the matter must be investigated or re-investigated following a review

There may also be an investigation if the AA determines that is the most reasonable and proportionate method of handling.

In considering whether there is an indication, the AA should assess the facts asserted by the complainant - alongside any readily available evidence, such as body worn video footage or custody logs.

[Chapter 10 of the IOPC Statutory Guidance](#) and [issue 13 of Focus](#) provides more information on this.

Assessing and deciding the relevant review body (RRB)

Q: Is the IOPC the RRB for all discrimination complaints?

A: There are several grounds that determine when the RRB is the IOPC (as set out in [Statutory Guidance](#) and [issue 19 of Focus](#)). Where none of the definitive grounds apply, such as it has been or should be referred to the IOPC because it meets the two-part criteria for referral, then in practical terms the RRB test will be assessed on whether the allegation, if proven, would result in criminal or misconduct proceedings (as defined in the [Police \(Conduct\) Regulations 2020](#)).

The assessment should be based on the wording of the complaint and not on the merit or likely outcome. In these circumstances the [College of Policing's 'Guidance on Outcomes in Police Misconduct](#)

[Proceedings'](#) provides a helpful framework to guide whether the seriousness of the allegations, *as worded in the complaint*, meets the criteria, or not.

If it is not clear, from the wording of the complaint, in what capacity the discrimination has occurred, then as part of initial contact with the complainant it can be explored why the complainant feels they have been discriminated against. In these circumstances it would be reasonable to take into consideration this further information before assessing and deciding on the RRB.

Should the discrimination complaint not meet any of the grounds, the RRB would be assessed as the LPB, and the complainant should be notified accordingly.

Consideration of the Discrimination Guidelines

Q: Should your [Discrimination Guidelines](#) be applied to complaints that are handled otherwise than by investigation? (For more information about this method of handling please refer to paragraphs 10.5-10.9 and Chapter 12 of the [IOPC Statutory Guidance](#).)

A: Yes, our Discrimination Guidelines apply to all allegations of discrimination arising in police complaints, recordable conduct matters, and death and serious injury investigations.

As such, the IOPC expects them to be followed in respect to Schedule 3 complaints; both complaints handled otherwise than by investigation and those subject to investigation.

Q: Does providing a list of questions, as referred to in your [Discrimination Guidelines](#), satisfy our obligations for exploring the actions or non-actions of an officer when handling the complaint otherwise than by investigation?

A: Regardless of how the complaint is being handled, the list of suggested questions is a prompt, that should be used in both investigations and other handling cases.

Case to answer

Q: What considerations should the decision maker (DM), on behalf of the Appropriate Authority (AA), make when deciding if there is a case to answer for misconduct or gross misconduct?

A: Under the 2020 regime, there can only be a case to answer where the alleged breaches of the [Standards of Professional Behaviour](#) are so serious that, if proven or admitted, they would justify 'disciplinary action.' [The Police \(Conduct\) Regulations 2020](#) define 'disciplinary action' as being *at least* a written warning.

The DM must be mindful that disciplinary proceedings are intended to deal with the most serious breaches, likely to include breaches which would damage public confidence in the police or, bring the

The questions should address the specific concerns raised by the complainant that they were treated differently - and fully explore with the officer/s the responses they have provided.

The purpose of questioning the officer/s is to assess and decide whether the reasons for taking action/no action were made with sound, impartial and fair consideration and not generated from having any biased beliefs; unconscious or otherwise. Asking questions of the officer/s directly allows for a more natural discussion to take place where further clarity can be sought, and where necessary, can include reflection on the complainant's experience - and how they may approach a similar matter in future.

On the few occasions where it is not possible to have dialogue, any questions put to the officer/s in writing should not be in the form of 'closed' questions. They should try and draw out why they took the action they did, what assessments and assumptions were made and the reasons for this - so that further frank and open communication can take place, if it is needed.

reputation of the police into disrepute ([Chapter 4, Home Office Statutory Guidance](#)).

To come to that conclusion, the DM must follow a two-step process:

Step 1

- i. Assess the available evidence to establish whether, in their opinion, there is sufficient evidence upon which a reasonable panel could find there has been a breach of the Standards of Professional Behaviour.

To do this the DM should carefully consider the content of the investigation report, any relevant evidence and, the views of the complaint handler - which should be detailed in the report. The DM should apply the existing 'case to answer test' to **each, and every, allegation made against the subject officers**. The test

being whether ‘there is sufficient evidence, upon which a reasonable misconduct meeting or a reasonable disciplinary hearing panel, could find misconduct or gross misconduct proven on the balance of probabilities.’

The DM must consider whether the nature and quality of the evidence is sufficient for a reasonable meeting or panel to reach such a finding. If they decide that it is, they should reach a finding that there is a case to answer. DMs may wish to consult [chapter 8 of the Home Office Statutory Guidance](#), which provides specific guidance on evaluating the evidence relating to each allegation.

They should also:

- ii. Assess whether, in their opinion, the alleged breaches of the Standards of Professional Behaviour are sufficiently serious to justify disciplinary action.

To do this, the DM must consider whether any of the alleged breaches of the Standards of Professional Behaviour are sufficiently serious as to warrant either disciplinary action or dismissal.

The definitions for the purposes of bringing disciplinary proceedings are:

- **Gross Misconduct** - a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal.
- **Misconduct** - a breach of the Standards of Professional Behaviour that is so serious as to justify disciplinary action. The reference to disciplinary action was introduced by the 2020 regime. In this context, disciplinary action will only be appropriate in cases where the allegations are sufficiently serious that they would justify a written warning, or above.

When considering the seriousness of a breach of the Standards of Professional Behaviour, and differentiating between misconduct and gross misconduct, DMs should have regard to the College of Policing ‘[Guidance on Outcomes in Police Misconduct Proceedings](#)’, and [Chapter 4 of the Home Office Statutory Guidance](#) which makes it clear that a written

warning should be viewed as a significant sanction - as it has a lasting impact on an officer’s record.

DMs should be aware that they can only reach a decision that there is a case to answer for misconduct, or gross misconduct, if both parts of step 1 can be satisfied.

Step 2

If the answer is ‘yes’ to both of the questions at Step 1 the DM should then decide whether proceedings should be brought.

[Regulation 27\(3\) of the Police \(Complaints and Misconduct\) Regulations 2020](#) gives the DM the discretion to decide whether proceedings should take place, even if they are of the opinion there is a case to answer.

The regulations do not define the circumstances in which a DM can reach a view that no proceedings should follow, but it may be due to ill health of the subject officer or circumstances in which bringing proceedings may be viewed as disproportionate. The Home Office Statutory Guidance suggests that the question of proportionality may be a factor in considering whether misconduct (as opposed to gross misconduct) cases are referred to proceedings.

[Chapter 8 of the Home Office Statutory Guidance](#) makes clear there is a presumption that, where there is a case to answer for misconduct or gross misconduct, proceedings will be brought. This is in view of the overriding public interest in police officers being held to account.

In view of this presumption, the DM should ask themselves ‘*are there proper reasons that this matter (on which I have determined that there is a case to answer) should not go forward to disciplinary proceedings?*’ DMs are also advised to seek legal advice.

If the DM decides that proceedings should be brought, they are required to specify the form those proceedings should take.

If the DM assesses there is a case to answer

for misconduct, a misconduct meeting will be held. If, however, the officer has live sanctions (live final written warning at the time of the initial severity assessment - or has been reduced in rank less than 2 years prior to the initial severity assessment) in place, this may require the officer to attend a misconduct hearing.

If the DM assesses the officer has a case to answer for gross misconduct, the officer will attend a misconduct hearing.

If the DM assesses the officer has no case to answer they should record their rationale and indicate whether they are referring the

Providing information

Q: How should complaints handlers discuss evidence relating to an officer's complaint history in the outcome report?

A: The purpose of the outcome report is to discuss and evaluate the underlying evidence that supports the findings reached. When it comes to an officer's complaint history, if this information is considered sensitive and there are concerns about sharing the details with the complainant, the report should explain that the information has been reviewed and how it has been considered - without disclosing confidential information. The extent to which information can be disclosed should be judged on a case-by-case basis. In some cases, it will be relevant to tell the complainant outright that the officer in question has been involved in a similar previous incident.

It is important to bear in mind the context of the complaint history and how it is being used to build a picture of evidence. If no mention is made of the outcome of previous incidents, it is difficult to explain whether or not that evidence is adding weight to conclusions - and the part it has played in the decision-making.

If an application for review is made, the IOPC or LPB will need to know about previous incidents, if they have been considered as part of the evidence gathered. If this is not provided within the papers requested, when the AA is notified of

matter to the AA to be dealt with by way of [Unsatisfactory Performance and Attendance Procedures \(UPP\)](#) - the relevant formal performance procedures for police staff and volunteers or the [Reflective Practice Review Process \(RPRP\)](#).

If the DM does not assess any requirement for the matter to be dealt with by way of the Performance Regulations, or the Reflective Practice Review Process, they should also record this and consider whether any other outcomes - such as learning - are reasonable and proportionate.

the review, they may be requested, by the IOPC, as part of commissioning further work.

Q: As the complainant will have a right of review and the relevant review body will have access to all of the evidence considered, is there any need to include my reasons for not pursuing certain enquiries - or for not following parts, or all, of the [Discrimination Guidelines](#)?

A: Yes. It is essential that as well as evidencing the enquiries and considerations you have made in your outcome letter to the complainant, that you provide your rationale for:

- not pursuing any usual lines of enquiry,
- deciding not to follow the guidelines, in part or otherwise,
- not placing any evidential weight on a piece of evidence that has been considered, and/or
- not contacting the complainant.

Often, this missing information can make it difficult for the complainant to understand why certain enquiries or evidence were not considered - and how the outcome has been reached in the circumstances. There is also the potential that if the missing information makes it difficult for the complainant to understand how the outcome has been reached, it could result in the complainant not having confidence in

the findings and an application for review being made and subsequently upheld.

By not providing a rationale, it can also exacerbate any mistrust the complainant may have with the police - and add to their concerns that attempts are being made to hide the facts, or that their concerns are being dismissed without exploring certain lines of enquiry.

Documenting the reasons why certain lines of enquiry have not been pursued will also assist the reviewer to make a determination on whether the outcome is reasonable and proportionate, should a review be received.

Q: Should a force's toolkit, used in the handling of a complaint involving discrimination, be provided to the review body if a review is submitted by the complainant?

A: Yes. It is essential that as well as evidencing the enquiries that have been made, you provide any information, including policies and processes that you have considered, even if you decide not to follow parts of it.

Knowing what the toolkit covers, what is expected from the complaint handler, and what online tools and reference material they are encouraged to consider as part of the process, can help the reviewer understand the complaint handler's approach. This would include any decision and rationale not to follow any part of the toolkit. It will also help determine whether the outcome of the complaint is reasonable and proportionate.

Q: Can I use alternative wording to 'service level acceptable/not acceptable' when writing to a complainant with the outcome of their discrimination complaint? The terminology is sometimes unhelpful and restrictive.

A: Under the new legislation, there was a conscious decision to move away from using upheld/not upheld for the outcome of complaints. This decision, and the new language

for complaint outcomes, were approved by the Statutory Guidance governance board. The change in language was to reflect the move towards a complaints system more focused on customer service, rather than focusing on the potential misconduct of individuals.

While service level determinations are required by the Statutory Guidance, they should always be clearly supported by an explanation for that decision. For complaints involving discrimination, decisions should be expressed in terms of evidence pointing towards or away from discrimination - rather than saying there is no evidence of discrimination.

It is important to use language that is empathetic and not defensive or dismissive, and that acknowledges how the interaction with police left the complainant feeling - and the impact they say it has had. It is important the complainant feels they have been listened to - their negative experience of interaction with the police may not be their first, and the responses received may feel repetitive if standard phrasing is used.

Whatever the outcome of the complaint, the complaint handler may identify opportunities for learning and reflection. If the overall service provided was acceptable, it should not stop any consideration of how the actions taken, or not taken, may have reinforced the complainant's belief that assumptions and stereotypes were at play. It is good practice to include in the outcome report, or letter, any comments made by the officer/s as part of the complaint handling - that helps demonstrate how they have positively reflected, and what they may do differently going forwards.

[Chapter 17 in the statutory guidance](#)

provides further information on the language forces should be using for complaint outcomes.

Learning recommendations summary

Following on from investigations and reviews, the IOPC can make recommendations. This can be done through the following routes:

- Section 10(1)(e) of the *Police Reform Act 2002* (PRA) – this type of recommendation is used for issues that are less systemic. For example, small changes which may relate to a small number of officers, specific police stations, or individual teams but are likely to be less relevant across the entire force.
- Paragraph 28A of Schedule 3 to the PRA - these are used for matters that are more far reaching or have a wider impact. For example, where changes are required to; policy, guidance, training, systems, equipment, or in extreme cases - the law. These recommendations must be published and the recipient is obliged to respond to them within eight weeks.

Recommendations are primarily made to police forces, or police and crime commissioners. However, they can also be directed to other organisations that are relevant to our investigations, such as the NHS, or other emergency services. Where we are recommending a national change to guidance, training, or practices, we may direct them to key national organisations, such as the College of Policing, National Police Chiefs' Council or Home Office.

Listed on this page are a number of published, formal recommendations that have arisen from work carried out within the thematic area of race discrimination. These address a wide range of issues from; the application of our [Discrimination Guidelines](#), the use of social media, the use of policing powers and, the police response to vulnerable individuals.

We hope that sharing these with you demonstrates how far reaching the learning from complaints handling can extend, and the action that forces have committed to in order to learn and improve.

[Recommendations – Bedfordshire Police, November 2016 | Independent Office for Police Conduct](#)

[Recommendations, Stop and search Bedfordshire Police, October 2018 | Independent Office for Police Conduct](#)

[Recommendations, Stop and search, Romford - Metropolitan Police, April 2019 | Independent Office for Police Conduct](#)

[Recommendations - Metropolitan Police Service, June 2020 | Independent Office for Police Conduct](#)

[Recommendations - Devon and Cornwall Police, December 2020 | Independent Office for Police Conduct](#)

[Recommendations – Metropolitan Police Service, June 2018 | Independent Office for Police Conduct](#)

[Recommendation - West Yorkshire Police, February 2022 | Independent Office for Police Conduct](#)

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Get in touch

This guidance was published by the Independent Office of Police Conduct (IOPC) in December 2022, 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.

We welcome correspondence in Welsh. We will respond to you in Welsh and that this will not lead to delay.

*Rydym yn croesawu gohebiaeth yn Gymr aeg.
Byddwn yn ymateb i chi yn Gymraeg ac na fydd hyn yn arwain at oedi.*

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