

OCTOBER 2024 ISSUE

OVERSIGHT

newsletter

Welcome to our monthly newsletter which provides updates about the work of the Independent Office for Police Conduct (IOPC). The newsletter is for complaint handlers in forces and local policing bodies (LPBs).

Information for police

You can find lots of useful information for police officers and staff on our [website](#). This includes information and guidance for professional standards departments, complaint handlers and local policing body reviewers.

Topics include complaint handling guidance and a toolkit, IOPC discrimination guidelines, guidance on managing unreasonable and unacceptable complainant behaviour, an operational advice note on 12-month timeliness reports and more.

Learning the Lessons 44 (corruption) – Your feedback needed

In October, we published [Learning the Lessons 44](#) on the topic of corruption.

We would appreciate your feedback to help us understand its reach and impact, and to help make improvements in the future. Please complete our [short feedback survey](#), which explores how the magazine was shared in your force, how it may have supported your work, and any other feedback you may wish to share.

Please contact learning@policeconduct.gov.uk with any questions or comments. You can also request a free pack of hard copies to share with staff at relevant training or given to officers and staff at meetings.

The next issue of Learning the Lessons focuses on violence against women and girls and will be published in **Spring 2025**.

Recent information

Update to the Operational Advice Note for 12-month timeliness reports

On Friday 8 November 2024, we emailed you with an updated version of our [online guidance document on 12-month timeliness reports](#). The updates reflect some of the issues that have come to our attention where timeliness reports do not provide sufficient information. We encourage all complaint handlers to familiarise themselves with the updated version of the guidance. Please refer to your email for more information.

If you have any questions on the updated version, please contact your Oversight Liaison or email Oversight@policeconduct.gov.uk.

Professional standards departments new starter sessions

There are still places available on our virtual new starter session on **Tuesday 21 January 2025**. The session will be a useful introduction to the IOPC and cover the origins of the IOPC, the work we do, tips on complaint handling, and the opportunity to ask questions on any area of our work. It will be held remotely on Microsoft Teams and last around 60-90 minutes.

To book, please email the name and email address of each new starter to oversight@policeconduct.gov.uk.

IOPC annual deaths statistics report 2023/24

We have published our report, '[Deaths during or following police contact, statistics for 2023/24](#)'.

Published for the 20th year, the statistics provide an official record setting out the number of such deaths, the circumstances in which they happen, and any underlying factors. Figures across the different categories can fluctuate each year, and any conclusions about trends need to be treated with caution.

Past figures show mental ill health was a consistent factor among those who die in or following custody, but it featured even more starkly this year, in 19 of the 24 deaths. Also, in 48 of the 68 apparent suicides, and in just under half of the 60 other deaths we investigated, mental health was identified as a relevant factor. In 21 of the deaths in or following custody, the deceased was known to have a link to alcohol and/or drugs. Restraint was used in 14 of the deaths in or following custody cases, although did not necessarily contribute to these deaths.

Read our [Director General's comment](#) on our website.

? Common questions from forces and LPBs

Q: If a complaint is being dealt with outside of Schedule 3, or has been recorded but handled otherwise than by investigation, can this be signed off by any person serving with the police as delegated to do so, in accordance with the IOPC Statutory Guidance? Or like investigations, is the appropriate authority required to sign off?

A: According to the legislation, it's only investigations that require an appropriate authority's sign off. Where a complaint is being handled outside of Schedule 3 or otherwise than by investigation, you have discretion around the finalisation of a case in accordance with your own quality control measures.

Q: At the end of an investigation should the IO consider whether there is a case to answer and whether there is a breach of the standards of professional behaviour? Where there is a case to answer and breach of the standards of professional behaviour, is it correct that the IO should propose, but not determine, the form of misconduct proceedings as the appropriate authority would make the decisions on these?

A: On the basis that the case concerns a local investigation, to which special procedures apply, then it's correct for the IO to submit a final investigative report to the appropriate authority and for that report to include some of the IO's opinions.

[Regulation 27 of the Police Complaints and Misconduct Regulations 2020](#) confirms that, within the final report, the IO must (among other things) give their opinion as to:

- whether any person whose conduct was under investigation has a case to answer for misconduct, gross misconduct or has no case to answer
- whether or not any such person's performance is unsatisfactory, and
- whether or not any matter which was the subject of the investigation should be referred to be dealt with under the reflective practice review process.

However, the investigator should **not** express an opinion as to whether or in what form proceedings should be brought. On receipt of the IO report, it is then for the appropriate authority to make those determinations.

Q: As an LPB, how do we deal with an application for review for a complaint that should have been referred to the IOPC, but the correct outcome has been reached on the complaint?

A: The IOPC statutory guidance on carrying out reviews explains:

When deciding whether the outcome is reasonable and proportionate, the focus should be on whether it is appropriate to the circumstances of the individual complaint, rather than the process followed to reach that outcome. However, where the handling of a complaint is found to be legally flawed in a manner that could have affected the outcome, the review should be upheld unless the reviewer finds that the same outcome would inevitably have been reached even without those flaws.

This guidance applies to the relevant review body whether they are the LPB or the IOPC, and equally to reviews of complaints handled other than by investigation and reviews following an investigation. Failure to make a mandatory referral is a legal flaw, but if the outcome would inevitably have been the same, the review should not be upheld.

“Inevitable” is a strong word and it is not enough that the relevant review body agrees that outcome was reasonable and proportionate. It also needs to be satisfied that no other reasonable decision maker could have decided it differently. Where the LPB is handling the review, it will have to consider what decisions the IOPC would have made on referral i.e. whether it was necessary to investigate (which includes consideration of the merits), and if so, the mode of investigation and what the outcome of an investigation may have been.

Where relevant review body is the LPB, and a reasonable decision maker may have provided a different outcome, it should uphold the review and may then recommend to the appropriate authority that it refers the matter to the IOPC.

The IOPC and appropriate authorities have a duty to ensure that arrangements for the handling of complaints are efficient and effective. Ways in which these cases can be minimised within the complaints system include:

- a. Appropriate authorities giving training to complaints handlers on how to apply the mandatory referral test correctly. Guidance on the application of the referrals test is available at Chapter 9 of the [IOPC Statutory Guidance](#) and [edition 9](#) of Focus. They should also be aware of the clarification of the application of the referral test following the case of *R (on the application of Rose) v Chief Constable of the Greater Manchester Police [2021] EWHC 875 (Admin)*.

- b. LPBs should, on receipt of a review, carry out an initial 'validity check' to include whether they are the correct relevant review body, and consider if the complaint should have been referred to the IOPC. If it should have been referred, it follows that the IOPC should be the relevant review body. If the LPB is not the correct review body, it should raise this with the appropriate authority so that it may correct its designation of the relevant review body to the IOPC.

If the relevant review body finalises a review without identifying the legal flaw, the outcome is final and may only be changed following an order in judicial review quashing the decision.

Corporate news

IOPC response to Government's review of police accountability

The Home Secretary yesterday (23 October) announced the Government's intention to review the police accountability systems and outlined new measures in a statement in the House of Commons.

Commenting on the announcement, IOPC Director General Rachel Watson said:

"We welcome the announcement and I am pleased the Home Secretary has committed to making the changes in law which we put forward as part of our response to the previous Government's Accountability review.

"We are particularly pleased that measures which we recommended, to bring Crown Prosecution Service (CPS) referrals of criminal allegations against police officers in line with members of the public and to speed up processes between the IOPC and the CPS, will now be progressed.

Read our full statement on our website.

Statement following acquittal of officer for the murder of Chris Kaba

IOPC director Amanda Rowe said: "Firstly, we want to acknowledge Chris Kaba's family and friends today as they continue to grieve his death more than two years on. Our thoughts and sympathies remain with them and everyone else who has been affected.

"The past few weeks must have been incredibly difficult and distressing for Chris's family who have sat through the trial, listened to all the evidence and witnessed his final moments played out in court.

"We also recognise the impact that this trial has had on the officer involved, as well as his firearms colleagues and the wider policing community.

"Today a jury, having considered all the evidence, has acquitted Police Sergeant Martyn Blake of murder.

"It's important to recognise that fatal police shootings are rare, particularly in relation to the volume of incidents firearms officers are called to attend. And it is rarer still that they result in criminal or misconduct proceedings for the officer who fired the fatal shot.

"Over the past 10 years the IOPC – or our predecessor the IPCC - has undertaken 26 investigations into fatal police shootings. In one other case we referred a file of evidence to the CPS to consider a criminal charge for the officer who fired the shot."

Read [our full statement](#) on our website.

Latest news

Keep up to date on our investigations and other work to increase public confidence in the police complaints system. You can find our [latest IOPC news](#) on our website.

[Six former Civil Nuclear Constabulary officers would have been dismissed over WhatsApp messages](#)

[Former Sussex officer charged with misconduct in public office offences](#)

[Four officers and a police staff member to face disciplinary proceedings over David Carrick investigations](#)

[Update on investigation into complaints about Greater Manchester Police by man wrongly convicted of rape](#)

[Investigation launched into West Yorkshire Police officers following death in custody](#)

[IOPC finds use of force by Derbyshire Constabulary officers was reasonable prior to death of detainee](#)

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If you have any questions, please get in touch with your Oversight Liaison or a member of the Oversight team.

