

FOCUS

Focus gives police force professional standards departments (PSDs) and local policing bodies practical guidance on dealing with complaints, conduct matters, and death or serious injury cases. It supports them to handle complaints appropriately and improves standards. This issue focuses on handling complaints in line with the *Policing and Crime Act 2017*.

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Handling complaints – decisions and thresholds

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What is a complaint and who can make one?

A complaint is any expression of dissatisfaction with a police force that is expressed by or on behalf of a member of the public. It does not need to be in writing or state specifically that it is a complaint.¹ The following examples are expressions of dissatisfaction that should be treated as complaints:

- > a person in police custody makes an allegation about their arrest
- > someone emails a force asking to speak to a supervisor because they are unhappy about how a crime is being investigated

- > someone writes to a force complaining that they were late for an appointment because officers held them up while completing document checks on motorists
- > someone goes to a police station because they are unhappy that the person they reported for assault has not been charged

Members of the public can complain about the behaviour and decisions of the police service if they are adversely affected² by them, or if they directly witnessed what they are complaining about. Specific information about those who are eligible to complain is set out in the [IOPC's Statutory Guidance](#).

Examples	Can this be raised as a complaint?
A woman expressed dissatisfaction that more police officers were going to be issued with Tasers.	The woman has not been affected by the policy she is expressing an opinion about. She is not eligible to raise this as a complaint, but her communication can be handled as feedback.
A man complained that, because of a lack of officers to police the city centre, a fight had broken out that had damaged his property.	Because he is affected by the issue he is seeking to raise, the man is eligible to make a complaint.
A person complained that she heard an officer using discriminatory language when he arrested a suspect. She was offended by the language used.	The person is eligible to make a complaint about this. When the conduct took place, she was physically present, or sufficiently nearby to be affected by it.
A woman complained that her partner was injured during her arrest. The woman was not present when the arrest happened. She stated that, as a result of the injury, she had to look after her partner, completing all driving, cooking and cleaning responsibilities.	The person is eligible to make a complaint about this. She was affected by the actions of the police. The person who was directly involved was known to her, and she suffered inconvenience as a result of the police conduct.
A person who watched a news item about a protest march wanted to complain about an officer's actions during the protest.	This person is not eligible to make a complaint. They had not directly witnessed or been affected by the officer's actions.
A person complained about the content of a chief officer's press release, which set out plans to reduce the amount of patrols completed in their area. They were concerned that this would compromise their safety.	Press releases are aimed at the public. If their content leads to someone being adversely affected, any member of the public is eligible to make a complaint.

¹ Section 12, *Police Reform Act 2002*.

² A complainant can be adversely affected only if they were physically present or nearby when the incident occurred or when the 'victim' of the complaint was known to them before the event took place.

Examples	Can this be raised as a complaint?
A person watched a documentary about traffic police. They subsequently wanted to complain about the language used in the documentary when someone they did not know was arrested after a vehicle pursuit.	The person is not eligible to complain about the language used in the documentary. They were not adversely affected and did not witness the actions of the police.
A man out locally with his friend complained that an officer pushed his friend against a wall.	The man witnessed the police action and therefore is eligible to complain.
A woman complained after reading a post on social media from an unknown man which said that a police staff member had made a suggestive comment to him.	The woman is not eligible to raise the complaint – she is not adversely affected and did not witness it
A former officer complained that she was harassed by another officer from her force both before and after her retirement.	Because the two officers worked in the same force, any allegation that relates to before her retirement is not eligible to be recorded as a complaint ³ . The former officer should be directed to the force's internal grievance procedures. However, once retired, the officer is a member of public. This means she can make a complaint about police actions aimed at her after her retirement.
A police officer's husband complained about a misconduct investigation into his wife's actions. He stated that his wife had been treated unfairly and this was causing him distress as their home life was being affected.	The husband is eligible to make a complaint. He is adversely affected by the misconduct investigation conducted into his wife by police.

If someone is not eligible to make a complaint, the complaint handler should review the matter to consider whether the issues raised involve a conduct matter that should be recorded.

If a person is ineligible to be treated as a complainant, or the matter is not about the police, this should be documented and the person should receive an explanation. Prompt initial contact should be made with the person if it is not clear whether they are eligible to be treated as a complainant. In cases where the matter will not be treated as a formal complaint, where possible, the complaint handler should give a brief response to reassure the person that their concerns have been considered. For example, providing a limited explanation of what happened during an incident that was witnessed on television will help to restore confidence.

It may be unclear whether someone is trying to make a complaint, asking questions or giving feedback. If it is unclear, the person dealing with the matter should clarify their intentions so that the correct approach can be taken.

³ Often, allegations by employees do not need to be dealt with under the Police Reform Act 2002 as:

- persons serving with the police are not usually able to make complaints about their own force
- former employees are not able to complain about incidents that occurred in their force while they were serving with the police



CASE STUDY ONE

Force clarifies whether woman's feedback was a complaint or comment

A woman sent a letter to a force professional standards department expressing concern that the force intended to abolish the PCSO position. She explained that she had found local PCSOs to be particularly helpful, and she felt safer with them in her neighbourhood.

The complaint handler was not sure if this was intended as dissatisfaction or feedback. They contacted the woman, who explained that she wanted to give positive feedback about the PCSO position and had not intended to make a complaint. The complaint handler then documented the feedback.

The intention behind the woman's letter was not entirely clear initially. Rather than making assumptions, it is good practice to clarify how the person wants their comments to be handled. If the woman had said that she no longer felt safe because the PCSOs had been removed, this would have been an expression of dissatisfaction that she was eligible to make as a complaint.



CASE STUDY TWO

Query about police emergency response times

A man sent an email questioning why the standard emergency response time was 15 minutes, stating his opinion that that length of time could mean someone got hurt or the suspect could escape. This communication was documented as a query and answered. The man later replied explaining that he had been the victim of a burglary and was dissatisfied that the 15 minutes response time meant that the suspects had escaped. This matter was then treated as a complaint.

The initial communication was clearly a query about response times, not an expression of dissatisfaction. Additionally, it did not suggest that the man had been adversely affected by the response times. The subsequent email raised dissatisfaction with the service he had received, and this was correctly treated as a complaint he was eligible to make.



CASE STUDY THREE

Responding to complaints falling outside the police complaints system

A woman used a complaint form to raise concern about the police response to an altercation between two groups of young people after seeing video footage of the incident on social media and tv news. She expressed dissatisfaction that the officers made several arrests and that handcuffs were used.

The woman did not witness the incident and there is no suggestion that she is adversely affected by it. Therefore, she is not eligible to be treated as a complainant. The force documented the dissatisfaction and wrote to the woman to explain the reasons for their decision not to treat the matter as a complaint. They also explained why the officers took the actions they did and reassured the woman that the police force were looking into the incident.



CASE STUDY FOUR

Content of press release prompts complaint

A woman rang her local policing body and expressed concern about a recent press release from her force's Chief Constable. She stated that the Chief Constable had made comments about her community that were incorrect and would cause additional tension between her community and the police. The complaint handler treated the matter as a complaint against the Chief Constable.

The complaint handler was correct to treat the matter as a complaint because the woman was adversely affected by the content of the press release. If the woman's complaint had been about the crime statistics quoted in the press release, but there was no adverse effect on her, she would not be eligible to make a complaint and her call could be treated as feedback.

CASE STUDY FIVE

Former police officer complains about her pension

A former police officer complained that the conditions of her pension had been changed after she had left the police force. The complaint handler contacted her and explained that pension decisions were made by a third party. This meant that the matter was not a complaint for the force to deal with, and they explained how the woman could contact the pension company. The woman then clarified that her pension had changed because her supervisor in the force had supplied incorrect information after she left the organisation. This matter was then treated as a complaint.

The complaint handler was correct initially in not treating the complaint as a police matter. They were also correct to treat it as a complaint after receiving further information that clarified that it was a police complaint made by an eligible complainant.

Sometimes, a person may express dissatisfaction to the police and it is clear immediately that their perception is ill-founded. Regardless of merit, any expression of dissatisfaction made by an eligible

complainant is a complaint and should be dealt with. The outcome of this type of complaint could simply be providing the complainant with a clear explanation of why their complaint is unfounded.

CASE STUDY SIX

Complaint about police record influencing attempts to secure work

After being unable to secure employment, a man complained that he thought that the police had put something on his police record to stop him getting a job. The complaint handler reviewed the man's records. Because there were no markers present, they concluded that the complaint was not about the police.

In this case, the complainant expressed dissatisfaction about the police because of his belief that they had put something on his police record. This should have been treated as a complaint, regardless of the fact that the complaint handler checked and found that the man's record did not include any markers. As part of the complaint handling, the man could have been informed that there were no markers on his record.

If someone contacts a force to chase an update or other information without expressing dissatisfaction, this should not be treated as a complaint. If they report that the absence of the update/information is causing them annoyance or distress, this is an expression

of dissatisfaction and should be treated as a complaint.



CASE STUDY SEVEN

Caller seeks update on assault investigation

A woman contacted 101 about an ongoing investigation into an assault. She explained that she had not heard from the officer investigating the assault for some time. She asked for an update and was told that a message would be passed to the relevant officer. A week later she rang back because she had still not heard from the officer and was angry that he was ignoring her requests for information. This was then treated as a complaint.

The first time the woman called the police, she asked for an update and did not express dissatisfaction. It was correct to pass that request on. In the second phone call, the complainant stated that the matter was causing her annoyance, which is an expression of dissatisfaction. The second contact was correctly treated as a complaint.

Passive expressions of dissatisfaction

For an expression of dissatisfaction to be considered as a complaint, the person expressing it should have made a deliberate attempt to bring their dissatisfaction to the attention of either the force, the IOPC or the local policing body⁴. This attempt must be made either by or on behalf of someone eligible to make a police complaint. It could include:

- > attending a police station
- > calling the police
- > sending an email or letter
- > submitting an online form
- > making contact through a solicitor
- > making direct approaches through social media
- > actively locating and completing a survey

If a person expresses dissatisfaction on social media and directs the post to the force, the

IOPC or the local policing body (for example, by using their Twitter handle), if they are eligible to raise the issue, this should be treated as a complaint.

If someone expresses dissatisfaction passively and a force becomes aware of this, this does not mean that it has to be treated as a complaint. However, they should, where possible, make the person aware of how they can pursue their dissatisfaction as a complaint if they wish to. The following are examples of passive expressions of dissatisfaction:

- > a social media post that does not notify a force or local policing body
- > comments on someone else's social media posts
- > writing a blog
- > giving out pamphlets in the street
- > expressing general dissatisfaction with the police to a passing officer
- > completing a customer satisfaction survey at the request of a police force

CASE STUDY EIGHT

Social media post shares man's dissatisfaction with police

A man added a post to his personal social media page suggesting that he had been a victim of racial profiling after being stopped and searched twice in the previous month. He stated that the police needed to address the issue with stop and search generally as he knew certain ethnicities were more likely to be targeted. He did not attempt to bring this post to the attention of the police, the IOPC or the local policing body. Another person on social media alerted the police to the post. A complaint handler then logged the matter as a complaint. However, when she contacted the man, he said that he had not wanted to make a complaint; he just wanted to raise awareness about the issue.

The man did not approach the police force directly with his dissatisfaction. This meant it was not a matter that should have been treated as a complaint. If the man had directed his post to the police force, it would have been correct to treat it as a complaint.

⁴ Policing bodies include police and crime commissioners, the Common Council for the City of London, or the Mayor's Office for Policing and Crime.



CASE STUDY NINE

Blog outlines alleged illegal arrest

A woman wrote a blog about her experience of being arrested during an environmental protest. She wrote that she felt she had been arrested illegally as she had not done anything wrong. A member of the complaints handling team became aware of the blog but, as the woman had not approached the police force directly, took no further action.

The complaint handler was correct to take no further action in relation to this matter. The woman did not make a direct approach to the force to make a complaint. However, if she had sent the force, the IOPC or the local policing body a link to her blog, that would be a direct approach. In that situation, the expression of dissatisfaction about her arrest should be addressed as a complaint.



CASE STUDY TEN

Bystander shouts accusations at officer making arrest

During a football match, a man was arrested for drunk and disorderly conduct. A bystander then started shouting at the arresting officer that the police were corrupt and that he had been arrested unfairly in the past. The officer focused on the arrest he was making and ignored the man.

It is reasonable for the officer to focus on the operational matter rather than on what the man was shouting. A bystander shouting at him in this way does not constitute a complaint as no direct approach is being made to the police. The man shouted at the officer because he was there. In a similar situation, ideally, the officer should make sure that someone explained to the bystander how to make a complaint. However, in these circumstances, that might not be possible.

Logging complaints

Forces and local policing bodies are expected to take a pragmatic, reasoned and proportionate approach to deciding which complaints should be logged. If an expression of dissatisfaction is made to an individual or team in the police service or local policing body and it can be resolved quickly to the satisfaction of the member of the public, this does not have to be logged as a police complaint. However, information should be collected to enable forces and local policing bodies to learn from complaints. Please refer

to our [Guidance on capturing data about police complaints](#) (data capture guidance).

If the dissatisfaction cannot be resolved quickly or the complainant remains dissatisfied, the complaint should be logged and the relevant organisation should contact the complainant. You can find out more about the data that needs to be collected when logging a complaint in our [data capture guidance](#) and accompanying issue of [Focus](#).



CASE STUDY ELEVEN

Woman seeks explanation from police after road closure delays her journey

A woman contacted 101 because she was stuck in traffic and was unhappy that police had closed a road. The call handler explained that there had been a fatality and they were working to open the road within the next hour. The woman understood and thanked the call handler for explaining. The matter was documented in the force's control room logs.

This does not need to be logged as a police complaint. The woman wanted an explanation for why the road had been closed and received it immediately. The dissatisfaction was resolved and no further action was necessary. If the woman was unhappy with the explanation then the matter would need to be logged because further action would be needed to resolve her dissatisfaction.



CASE STUDY TWELVE

Quick response resolves complaint about armed police presence

A woman contacted a force's control room to say that she was intimidated by the heavy police presence in her area. She said that some of the police officers were armed and she was unhappy that there was such a heavy-handed presence in a nice suburban street. The call handler took details of the woman's street and explained that he would ring her back. The call handler looked up the street and could see that an incident involving firearms was in progress. The call handler contacted the woman and gave her some reassurance that the armed officers were there for a specific incident and that it was not usual for armed officers to police the area. The woman was happy with the explanation and thanked the call handler.

This expression of dissatisfaction did not need to be logged as a complaint. Although the call handler needed to find out whether an incident was taking place where the woman lived and then call her back, the matter was resolved quickly with no outstanding dissatisfaction at the end of the interaction.

Schedule 3 recording threshold

Paragraphs 6.26 and 6.27 of our [Statutory Guidance](#) set out the circumstances in which complaints must be recorded under Schedule 3 of the *Police Reform Act 2002*. Paragraphs 6.30 and 6.31 of our [Statutory Guidance](#) set out other factors to consider when deciding if a complaint should be

recorded. When making this decision, disciplinary proceedings can include complaints that could result in unsatisfactory performance proceedings⁵. The criteria should be assessed on the allegations and not on the merit of the complaint.

CASE STUDY THIRTEEN

Complaint alleges officer used excessive force

A man complained that a police officer had punched him. Body-worn footage of the incident was viewed and this showed that he was not touched. The complaint handler did not record the complaint and handled it outside of Schedule 3 by showing him the body-worn footage.

Although viewing the body-worn footage resolved the complaint, the allegation involved an officer using excessive force, which might constitute a criminal offence or justify disciplinary proceedings. Therefore, this must be recorded under Schedule 3.

There are also several circumstances where a complaint that was originally suitable to be handled outside Schedule 3 must be recorded under Schedule 3 and handled formally.

Handling a complaint outside of Schedule 3 is no longer appropriate if:

- > a complainant is dissatisfied with how the matter has been handled and wants the complaint to be recorded
- > at any time, the complainant asks that the matter be treated as a formal complaint
- > further information obtained during the handling of the complaint means that it must be recorded as a complaint under Schedule 3
- > detailed enquiries that cannot be completed promptly are needed to resolve the matter

If a complaint can no longer be handled outside of Schedule 3, the complaint should be recorded as a Schedule 3 complaint and forwarded to the appropriate authority. The complainant should be informed of this.

⁵ This process deals with inability or failure to perform to a satisfactory level, but without breaching the Standards of Professional Behaviour.



CASE STUDY FOURTEEN

Complainant specifies that she wants her complaint to be treated formally

A woman complained that she had not heard from the officer investigating her report of theft for two weeks. She said that she had tried to contact the officer and couldn't get through and thought this was poor customer service. She wanted the matter to be treated as a formal complaint. The complaint handler recorded the complaint under Schedule 3.

This type of complaint could be handled outside Schedule 3. However, because the complainant specified that she wanted it to be treated as a formal complaint, it must be recorded under Schedule 3. The complaint handler did this and passed it to the force's professional standards department to address.



CASE STUDY FIFTEEN

Additional allegation means complaint must be recorded

A man received a telephone call from an officer who wanted to speak to him about a report of harassment. The man was concerned that the person who called him might have been impersonating an officer. He contacted the police force to check if the call was from a genuine officer. He made clear that if the call was genuine, he was unhappy that they had made contact with him by phone.

The complaint handler made some enquiries and contacted the man to confirm that a report of harassment had been made, and that the call he had received was from a genuine officer. They explained that an attempt had been made to visit him in person, but that he hadn't been in. He was then contacted by phone instead.

The man's complaint then focused on the report of harassment. Despite having been told that the police have to investigate reports of harassment, the complainant remained unhappy. He did not believe that his behaviour constituted harassment and felt that it was not a police matter. The complainant then alleged that the police officer who phoned him had conspired with the person who reported his behaviour as harassment. Because of this additional allegation, the complaint became unsuitable for handling outside Schedule 3 and the complaint was recorded.

The complaint handler was correct to handle the original matter outside Schedule 3. Following the allegation of corruption, the complaint was no longer suitable to be handled outside of Schedule 3 and it was correct to record it.



CASE STUDY SIXTEEN

Woman not satisfied with attempt to resolve complaint outside of Schedule 3

A woman contacted the police after a police car parked inconsiderately on her road. She said it had happened at least twice and, on one occasion, the police car partly blocked her drive. She provided pictures. She wanted to know what incident the police were attending, and why they had parked on a private road.

The complaint handler established that officers had attended two emergency domestic incidents on the road. He contacted the woman and explained that officers had attended for legitimate purposes. He confirmed he had looked at the pictures showing how the police vehicle had parked, and acknowledged that it did partly encroach on her driveway, but not to the extent that it blocked it. There appeared to be enough room for her to get her car in and out of her drive. The woman was not satisfied with this response and asked for her complaint to be recorded.

The complainant was not satisfied with the answers she received and requested that her complaint be recorded. Therefore, it must be recorded under Schedule 3 and passed to the professional standards department to consider how best to reasonably and proportionately address it.

As set out in the [data capture guidance](#), if a complaint contains multiple allegations, some of which are suitable for handling outside

of Schedule 3 and some of which must be recorded, the complaint should be recorded in its entirety.



CASE STUDY SEVENTEEN

Complaint involves one allegation that must be recorded

Following his arrest for possessing indecent images, a man made a complaint that included several allegations. The allegations were that:

- > officers had confiscated his phone
- > his family were upset by the search of their home
- > he had not been offered food or drink for the 22 hours he was in custody
- > his bail conditions were unfair

Although some of the matters he raised could potentially be resolved outside Schedule 3, the complaint handler recorded the entire complaint because the allegation about custody might have involved a breach of Article 3 of the European Convention of Human Rights.

Although the entire complaint must be recorded under Schedule 3 because of the nature of one of the allegations, this does not mean that the complaint cannot be addressed quickly in a reasonable and proportionate way.

Referring a complaint

Once a complaint is recorded, a decision must be taken about whether it should be referred to the IOPC. Information about the matters that should be referred is included in Chapter 9 of our [Statutory Guidance](#). More practical information about referrals can be found in the referrals issue of [Focus](#). Referral to the IOPC is done by the appropriate

authority. Therefore, it is vital that the person dealing with initial handling can identify matters that should be referred so that they can pass them to the appropriate authority. It is important that suitable processes are in place to pass referable complaints to the appropriate authority.

CASE STUDY EIGHTEEN

Delay in referral after alleged sexual assault

While in police custody, a woman complained that an officer had sexually assaulted her during her arrest. She explained that the officer had deliberately grabbed her breasts while restraining her. Although this was all recorded in the custody notes, no further action was taken at the time. Two weeks later the woman contacted 101 and asked what had happened with her complaint. It was at this point that the professional standards department became aware of the alleged incident, recorded it and referred it to the IOPC.

Because the matter was not passed to the appropriate authority when it was raised, the complaint was not recorded or referred in a timely manner.

CASE STUDY NINETEEN

Delay in notifying appropriate authority of complaint involving serious injury

A woman was arrested for drunk and disorderly conduct after she ran into the road repeatedly. She was released without charge the next morning. The following day she harmed herself significantly and needed stitches. Her husband complained as he believed that the trauma of her arrest had led the woman to self-harm. As the initial complaint handlers, the local policing body tried to deal with the complaint outside Schedule 3 by explaining that the arrest was necessary and that the woman had not expressed any thoughts of self-harm while in custody. The matter was only passed to the appropriate authority when the man was not satisfied with the explanation he had received.

The man's allegation was that police actions had resulted in serious injury. Therefore, it was not suitable for handling outside Schedule 3. The complaint should have been sent straight to the appropriate authority to be recorded and considered for referral.

Deciding the correct organisation to handle a review

If someone is not satisfied with how their complaint has been handled, they can apply for a review. The appropriate authority should assess which organisation should consider any application for a review. Chapter 18 of our [Statutory Guidance](#) sets out the threshold for

when a review should be considered by the IOPC and when it should be considered by the local policing body. This decision is based on the wording of the complaint alone. The merit of the complaint or the possible outcomes is irrelevant at this stage.

CASE STUDY TWENTY

Relevant review body test where a criminal allegation has been made

A man's ex-business partner reported him for harassment. The subsequent harassment trial found the man not guilty. The man then tried to report his ex-business partner to the police for perjury and wasting police time. Considering the evidence, the police did not pursue the case against the ex-business partner. The man then complained that the decision not to pursue his allegations against his ex-business partner was wrong and perverted the course of justice. The appropriate authority decided that, in this case, the IOPC was the relevant review body.

This decision was correct. An allegation that an officer perverted the course of justice could result in criminal and/or misconduct proceedings. If the complainant had said that he was unhappy that his allegations were not being pursued because this was unfair, that would not result in criminal or misconduct proceedings, even if proved. In this case, the relevant review body would be the local policing body.

CASE STUDY TWENTY ONE

Complainant given incorrect information about how to seek a review

A woman alleged that a police officer had sent her several sexual text messages after she had reported a crime. During the handling of her complaint, evidence proved this had not happened. When the appropriate authority sent the outcome to the complainant, they stated that the right of review was to the local policing body.

The appropriate authority is incorrect. The decision about which organisation should consider any review should go back to the start of the complaint handling, before the response to the complaint is known. This decision should focus only on what has been alleged and not the merit of the allegation. Because this complaint, if proven, could justify criminal or misconduct proceedings, the review body should have been the IOPC.

Deciding whether to locally investigate or otherwise handle a matter under Schedule 3

Once a matter has been recorded under Schedule 3, the appropriate authority must decide whether to locally investigate it or handle it outside of investigation⁶. As set out in chapter 10 of our [Statutory Guidance](#), an investigation must be carried out if the appropriate authority determines that it is the most reasonable and proportionate way to handle the complaint. An investigation is also required for complaints where there is an indication that the behaviour complained of may amount to a criminal offence, may justify misconduct proceedings, or may engage Articles 2 or 3 of the European Convention on Human Rights. You can read more about the potential outcomes of misconduct proceedings in the College of Policing's [Guidance on Outcomes in Police Misconduct Proceedings](#). The assessment of whether that indication is present is made on the substance of the complaint and on the initial evidence readily available, not on the wording of the complaint alone. It is not necessary for the

initial evidence to corroborate the allegations for there to be an indication. However, if the initial evidence means that there is no indication that the behaviour complained about would amount to a criminal offence or justify misconduct proceedings, or that it may engage Articles 2 or 3 of the European Convention of Human Rights, then there is no requirement for an investigation.

If a decision is made that an investigation is required into the conduct of a police officer or special constable, the investigator will determine whether the investigation requires special procedures⁷. More information about special procedures can be found in Chapter 13 of our [Statutory Guidance](#).

⁶ The appropriate authority does not make this decision if the matter has been referred to the IOPC. If a referral has been made, it is for the IOPC to determine a mode of investigation. If the matter is referred back, the appropriate authority can decide how they will handle the complaint. An investigation will also be necessary if the IOPC direct after dealing with a review.

⁷ Special procedures exist to protect the rights of those under investigation for more serious matters.



CASE STUDY TWENTY TWO

Evidence shows woman's Article 3 rights not breached

A woman was arrested for shoplifting and taken to police custody. She alleged that, while she was being booked in, she was taken to the ground and restrained for an inhumane amount of time in a painful position. She also alleged that her detention was excessive and inhumane.

The complaint handler reviewed the readily available evidence. This included CCTV footage from the custody suite, custody logs and the statements that had been completed by officers after using force. The footage showed the woman becoming increasingly frustrated during the booking-in procedure. A detention officer told the woman to be quiet and the woman pushed him. Another officer then assisted in taking the woman to the floor. She was on the floor for less than ten seconds while handcuffs were applied and was then stood up. Custody records showed that the woman was detained for six hours and 14 minutes.

There is no indication that the woman's Article 3 rights might have been breached by her detention on the floor, nor that her detention was excessive. An investigation is not required and the complaints can be dealt with otherwise than by investigation.



CASE STUDY TWENTY THREE

Body-worn video footage does not support man's complaint of discriminatory language

A man complained that his arrest for breach of the peace at a pub was unnecessary and unlawful. He alleged that during his arrest, one of the officers was extremely hostile and used discriminatory language.

The incident log and body-worn camera footage were reviewed. Officers had been called to the pub because the man was acting aggressively and had threatened bar staff. The footage showed that, as the officers arrived, the man was shouting at staff and threatening to punch them. The officers approached him and the footage captured their efforts to calm him down. The man continued to threaten staff and then lunged at one of them, at which point he was arrested. During the incident, one officer shouted at the man to move away from the bar, but at no point could any officer be heard using discriminatory language.

The initial evidence gives no indication that the man's arrest may have been unnecessary or that discriminatory language was used. Therefore, a formal investigation is not required. However, if the complainant subsequently clarified that the language was used in the police car and was not covered by the body-worn camera, then the allegation of discrimination language would need to be investigated.



CASE STUDY TWENTY FOUR

Allegation of police officer causing damage to car

A man was stopped by two officers because the databases showed that his car was uninsured. He complained that one of the officers was very hostile and demanded that he step out of his car. The man refused and turned on his in-car camera. He said that one of the officers became increasingly frustrated and kicked his car in anger, causing a dent. The man supplied a photo of a dent on the side of the car.

The complaint handler reviewed the evidence that was readily available: footage supplied by the complainant and the officers' pocket notebook entries. The footage showed the man and two officers arguing. After a few minutes, one of the officers went to the dented side of the car, but the footage did not show anything further. The complaint handler decided that because the kick was not evident in the footage or referred to in the pocket notebooks, there was no indication that the behaviour complained of might result in proceedings. They did not start an investigation.

The fact that the evidence available does not prove or disprove the kick was not enough to say there is no indication that it happened. If proved, this allegation might result in misconduct proceedings. This complaint should be investigated.

Even if there is no requirement to investigate, this does not mean that a complaint cannot be investigated if appropriate. It may still be reasonable and proportionate to investigate

certain complaints because of public interest, concerns about public confidence or potential learning being identified.



CASE STUDY TWENTY FIVE

Complaints demonstrate public concern

A police force received a number of very similar complaints over the course of a week. The complaints, made by witnesses and the parents of those involved, was that officers were grabbing young people off their bicycles while they were riding them. Nobody had been injured, but there was concern that this practice could cause serious injury.

The incident logs available suggested that a number of young people had been riding in a very unsafe way, including darting into traffic and cycling on one wheel. When police were dispatched, the young people rode away and refused to dismount. The police then grabbed them while they were cycling to get them off their bikes.

Although the complaints did not meet the indication test, the appropriate authority decided that it was reasonable and proportionate to investigate because there was potential learning from the complaints and because of the concerns raised by the community.

The decision to investigate the complaints was reasonable and proportionate because of the local interest and the potential for identifying learning

What information to gather when deciding whether to locally investigate

The complaint handler should gather and review any information that already exists and is readily available to them. This includes information in databases, pre-existing reports (for example, arrest statements, pocket notebook entries) and video footage. This should be considered alongside any information provided by the complainant. The complaint handler should not generate new evidence to assist in this decision-making process, such as requesting statements or accounts.

When reviewing the readily available information associated with a complaint, it is

likely that evidence such as video footage will be used to determine whether an investigation is required, as opposed to evidence from people, such as statements. Where there is one person's word against another, with no further information, the lack of information will generally not negate the need for an investigation.

If the initial evidence does not provide an indication, then the matter can be reasonably and proportionately handled, but the complaint handler must keep this under review. Where there is doubt about whether there is or is not an indication, this usually suggests that it would be reasonable and proportionate to carry out an investigation into the complaint.

CASE STUDY TWENTY SIX

Woman dissatisfied with police handling of harassment allegations

A woman complained about how the police handled a long-standing dispute with her neighbour. She had been arrested and charged with harassment. She complained that she was the victim in the dispute and had previously reported harassment and threats, but no action had been taken. The woman said that she had been assaulted by her neighbour recently and police had failed to prevent this.

The complaint handler reviewed the incident logs, crime reports, and officer and witness statements. The woman had contacted police eight times in the last year to report harassment and threats. Police had attended each time, but all the incidents had been closed with no further action. There appeared to have been sufficient grounds to arrest her neighbour on two occasions (including an incident five hours before the alleged assault) where the neighbour had made threats to harm. The incidents had recently escalated but it appeared that no risk assessments had been completed. The complaint handler then contacted the officers who had been involved in the various reports to discuss why they hadn't completed risk assessments or arrested the neighbour.

The complaint handler's actions in proactively contacting the officers to create further evidence to assess whether the complaint requires investigation go too far. From the paperwork and evidence available at the initial handling stage, there is already an indication that officers may have failed to act on the complainant's reports about her neighbour. If proved, this could result in misconduct proceedings and therefore this should be subject to an investigation.



CASE STUDY TWENTY SEVEN

Additional information uncovered during handling of complaint

A man complained that during a stop and search an officer had pushed him up against a wall unnecessarily, causing him bruising. During the initial contact the complainant gave the location, date and time of incident. The complaint handler could not find any information to confirm that any stop or search had happened, and the named officer was on leave on the day the incident was said to have occurred. There was no CCTV footage covering the street named by the complainant. The complaint handler assessed that there was no indication that excessive force had been used and that the matter could be handled otherwise than by investigation.

During the handling of the complaint, when told that there was no evidence to support the assertion that a stop and search had occurred on that street that day, the complainant revisited the area and realised he'd given the wrong street name. The complaint handler was then able to get CCTV footage from the correct street and an officer could be seen pushing the man against the wall for no clear reason. The complaint handler decided that it was appropriate to begin an investigation.

The complaint handler's actions were correct. Initially, there was no indication that the behaviour may result in misconduct proceedings. However, when more information was uncovered, the matter was reassessed and an investigation started.

Should mixed complaints be addressed together or separately?

For complaints where more than one, but not all, of the allegations meet the indication test, consideration should be given to the most reasonable way to handle the complaint.

In most cases, it will be appropriate for the allegations in the complaint to be part of the same investigation. However, there may be circumstances where there is an individual allegation that could be resolved quickly and that isn't directly linked to the allegation that does need to be investigated. There may also be situations where some of the allegations require suspension because of associated criminal proceedings, but other allegations can be addressed. In these cases, it may be beneficial to split the complaint. This can be discussed with the complainant in the initial contact with them.



CASE STUDY TWENTY EIGHT

Complaint including different types of allegation

A man complained that he had been strip searched unnecessarily. He also complained that he was not given the medication he needed during custody, which caused him pain and distress. The complaint handler reviewed the custody records and could see that a strip search had taken place because the man had a marker for concealing drugs. There was information in the risk assessment that the man required medication for pain management and anxiety, but nothing to confirm that he had been given the medication. The complaint was investigated.

It is reasonable for this complaint to be investigated. Although there is no indication that the man was strip searched unnecessarily, the allegation about medication should be investigated as it may engage Article 3 of the European Convention of Human Rights. As both allegations are about custody and should take a similar amount of time to resolve, there is no need to split this complaint.

CASE STUDY TWENTY NINE

Splitting allegations of different types

A woman complained that an officer was harassing her. She stated that he was her neighbour and that they had been in dispute about work he intended to carry out on his home. She said that, since the dispute started, he had started to turn up at her shop in uniform and, although he hadn't said anything threatening, she felt threatened by his persistent presence. The woman provided some CCTV to demonstrate this. She explained that she'd also got several threatening phone calls, but couldn't identify the person calling. The woman further complained that she had tried to tell another officer about the harassment, but that they had ignored her because they were attempting to cover up the behaviour.

The complaint handler viewed the CCTV and could see that the officer had attended the shop almost daily over a three-week period. He was in uniform, with no clear policing purpose. They also checked records for the conversation the woman had had with the other officer. There was a log of the conversation that explained the woman would need to be contacted about a report of harassment to take further details. The complaint handler contacted the woman and explained that the report of harassment would require investigation and may take some time, while it appeared that the officer that she had tried to tell had logged the matter and flagged the report to be followed up. They explained that they would be able to respond about the second officer quickly, but that the harassment allegation may take some time to deal with. During the contact it was clear that the woman would prefer to receive the outcome of the first allegation quickly. Therefore, the complaint handler explained that they could split the complaint.

The complaint handler's actions were reasonable in the circumstances. The background to the complaint arises from a neighbourhood dispute, which could relate to off-duty conduct, but the woman's complaint relates to the officer's actions while he is on duty. Although the CCTV from the shop does not prove or disprove the allegation of harassment, it is enough to show that there may be an indication, so the allegation should be investigated. The allegation about the second officer does not meet the indication test, isn't directly linked to the reported harassment and can be handled quickly. The woman had also expressed her preference to receive the outcome of the first allegation quickly. All of these factors make it appropriate to split the complaint.

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Get in touch

This guidance was updated by the Independent Office for Police Conduct (IOPC) in January 2021, and was correct at the time of publication.

Contact the IOPC for further advice, or if you need a copy of this issue in another language or format.



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