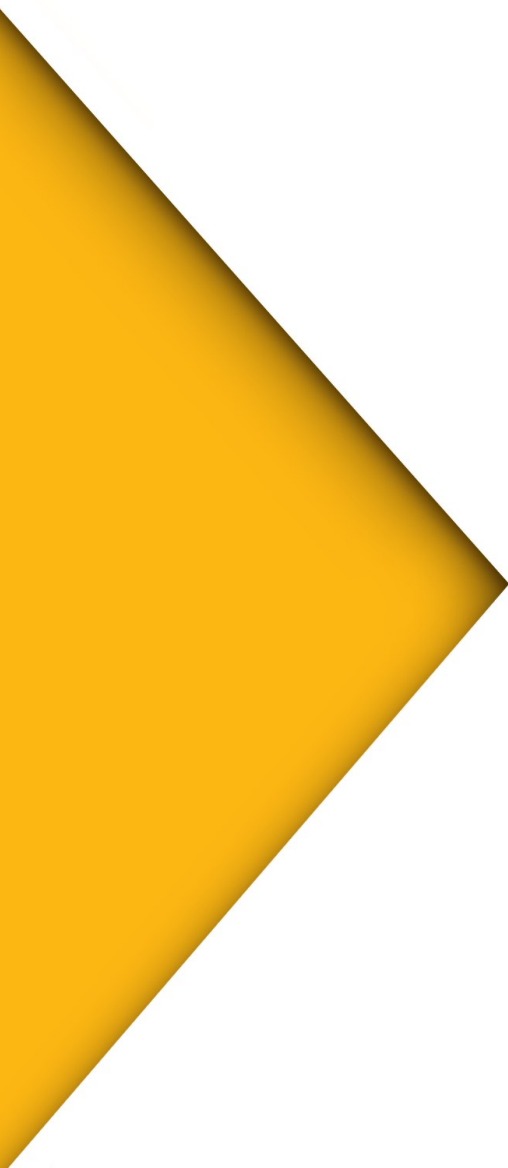


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Victims' Right to Review Policy

August 2026

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Background

The IOPC has operated a Victims Right to Review (VRR) process since 2020. It was introduced to ensure that victims alleging criminal conduct by police officers or staff within IOPC independent, managed or directed investigations have access to a review mechanism comparable to that available to victims of offences committed by members of the public under the CPS VRR scheme.

VRR has since been placed on a statutory footing through amendments to Schedule 3 of the Police Reform Act 2002, made by section 199 of the Crime and Policing Act 2026.

Scope of the Victims' Right to Review (VRR)

Paragraph 23A of Schedule 3 to the Police Reform Act 2002 requires the Director General to offer victims the opportunity to request a review where the Director General proposes not to refer a case to the CPS.

The VRR applies where, during the course of an investigation, a person has been notified that they are subject to a criminal investigation. This applies only to investigations relating to matters recorded as criminal offences in accordance with the National Crime Recording Standard.

The following cases do **not** fall within the scope of the VRR:

- Cases in which a decision has been taken to make a referral to the CPS on conclusion of an investigation, but that referral does not relate to **all** the subjects of the criminal investigation. However, where **none** of the subjects and/or matters referred relate to the incident (alleged or otherwise) which affected a specific victim, that victim will retain a right to review.
- Cases in which a referral was made to the CPS for a charging decision prior to the completion of the investigation; that charging decision was negative, and there has been no material change in the evidence since that time.

It should be noted that, if a referral has been made to the CPS and the CPS has made a decision not to prosecute, then the victim will be referred to the CPS VRR Scheme.

Who can apply for a Victims' Right to Review?

Any victim is entitled to seek a review of a decision not to make a referral to the CPS.

For the purposes of VRR, the IOPC applies the definition of a victim set out in section 1 of the Victims and Prisoners Act 2024 ('the Act') and reflected in the Code of Practice for Victims of Crime (the Victims' Code).

The Act defines "a victim" as a person who has suffered harm (including physical, mental or emotional harm, or economic loss) as a direct result of being subjected to criminal conduct¹, or one or more of the following circumstances -

- a) where the person has seen, heard, or otherwise directly experienced the effects of, criminal conduct at the time the conduct occurred;
- b) where the person's birth was the direct result of criminal conduct;
- c) where the death of a close family member² of the person was the direct result of criminal conduct;
- d) where the person is a child who is a victim of domestic abuse which constitutes criminal conduct³.

The right to review may be exercised by a victim, whether or not they made a report of a crime.

The right to review may be exercised by someone acting on behalf of a victim in appropriate circumstances. This should be considered on a case-by-case basis, and written authorisation from the victim will generally be required unless this is not possible, for example, due to the victim's age or disability. Requests on behalf of a victim will not be permitted where the victim has withdrawn their support for the investigation.

Where the victim is under 18 the IOPC will, in accordance with the Victims' Code, keep the victim's best interests as its primary consideration.

Where relevant, consideration should be given to any additional support that may be required by a vulnerable victim⁴.

¹ This includes offences committed without the victim's knowledge. The harm may be caused in those circumstances when the person is made aware of the offence.

² This includes a spouse, partner, relatives in direct line, guardians, siblings, dependents and other relatives who are carers.

³ The definition of a victim also includes a person who has witnessed criminal conduct.

⁴ A person who meets the definition on this basis has the right to access support services under the Victims' Code.

Notifying the victim of their right to review

The lead investigator is required to notify the victim of the proposed decision not to refer a matter to the CPS. At this time, the lead investigator will also notify the victim of their right to review. An information leaflet is available and should be sent to the victim with this notification. The appropriate authority (AA)^[O&A] and any other relevant person will also be informed of the proposed decision and the applicability of the VRR process.

Sufficient information in respect of the decision not to refer the matter to the CPS must be provided to the victim to enable them to properly consider and decide whether to request a review. However, such information will not be disclosed where necessary for the purpose of:

- a) preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any actual or prospective criminal proceedings;
- b) preventing the disclosure of information in any circumstances in which its non-disclosure —
 - i) is in the interests of national security;
 - ii) is for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders;
 - iii) is required on proportionality grounds, or
 - iv) is otherwise necessary in the public interest.

Non- disclosure will only be considered necessary where:

- a) there is a real risk of the disclosure of that information causing an adverse effect, and
- b) that adverse effect would be significant.

Any disclosure must be compliant with data protection law.

Process of exercising right to review

A review must be requested within 28 calendar days from the date of the letter informing the victim of their right to review, subject to limited exceptions.

Where there is less than one calendar month before the expiry of the statutory time limit (STL) for summary offences, we will require VRR applications to be submitted sooner, in order that the application can be considered before the STL expires. In the event that no request is received within the specified timeframe, the proposed referral decision will be confirmed, and the victim, subject and AA notified accordingly.

A request for review should ordinarily be made in writing, whether by email or letter. However, a request by other means, for example a verbal request, will be accepted if a victim would otherwise be disadvantaged.

The victim may exercise their right by simple request; it is not necessary for reasons or arguments to be presented. However, any representations that are made within the specified timeframe will be considered within the review.⁵

Each request will be logged on receipt and allocated to the next available suitable reviewer.

The subject and AA should be notified of any VRR requests received and the potential outcomes of a review as soon as possible.

Out of time requests

Any request for a VRR submitted after the applicable time limit of 28 calendar days will only be accepted in exceptional circumstances, and subject to an absolute limit of three months from the date of the notification letter. An out of time request will be allocated to an independent reviewer in the usual manner, who will consider the particular circumstances of the case, the length of delay, and any reasons given for this.

The reviewer will first determine whether, in all the circumstances, it is appropriate for a review to be carried out. If not, the victim will be informed accordingly. Circumstances may be considered 'exceptional' where, for example:

- The victim has been in hospital, and has been unable to respond;
- The victim is in prison, and was not provided with notification of the proposed decision until after the response deadline;
- The victim suffers from a mental health problem, and because of this was not able to respond within the timeframe permitted.

Of course, where relevant, reasonable adjustments should be made in accordance with the *Equality Act 2010*.

If the 'out of time' request is accepted, the reviewer will proceed to consider the matter in the usual manner, as set out below. However, the delay in submitting the VRR must be considered when the reviewer determines the issue of whether it is 'appropriate' for the matter to be referred to the CPS. This is principally because the decision not to refer the matter to the CPS will have been confirmed and communicated to the subject. Any implications for other proceedings must also be considered. Ultimately, the reviewer must assess whether public confidence in the

⁵ Representations received after the expiry of the applicable deadline may be taken into account by the reviewer, at their discretion.

police complaints system requires a referral to be made to the CPS in all of the circumstances.

There is a public interest in ensuring the CPS can make charging decisions in appropriate cases and in maintaining confidence among complainants and other interested persons in our investigations and decision-making. This must be balanced against the need for certainty in public body decision-making and the risk of abuse of process where final decisions are revisited.

A High Court order quashing a final decision not to refer a case to the CPS may be required before a referral can be made.

Interaction with other decision-making

As above, the AA and any subject should be informed that the proposed CPS-referral decision may be challenged by way of VRR, which is ordinarily exercisable within 28 calendar days.

The AA will be asked to provide its opinion as to whether it is able to express its views under paragraph 23(5A) of Schedule 3 PRA on the disciplinary and performance matters arising from the investigation.

The IOPC considers that it will be highly unusual for decisions regarding disciplinary matters to be delayed pending the conclusion of the VRR process. Should this be contemplated, the IOPC encourages AAs to engage in an open discussion in this respect. Where appropriate, the IOPC may agree for an extension to be granted beyond 28 calendar days under Regulation 27(5) Police (Complaints and Misconduct) Regulations 2020, as applicable.

The IOPC notes the Home Office statutory guidance on Professional Standards, Performance and Integrity in Policing⁶ emphasises that disciplinary matters will ordinarily be expected to proceed notwithstanding the possibility of a criminal prosecution.

However, in appropriate cases Regulation 10 Police (Conduct) Regulations 2020, as applicable, can be utilised in order to protect against prejudice to criminal proceedings.

The IOPC will encourage and expect an open dialogue with the AA in respect of these matters.

⁶ Home Office Statutory Guidance on Professional Standards, Performance and Integrity in Policing, paragraphs 7.81–7.83.

The IOPC will ensure that the subject and the victim are kept updated as to the decisions that are made, the processes being followed, and the relevant timescales.

The review

Who will be responsible?

The review will be carried out by an independent reviewer. The reviewer must:

- i) be of equal or more senior grade to the initial decision maker where possible;
- ii) have had no decision-making responsibility in the investigation;
- iii) have no relevant conflict of interest, in accordance with IOPC policy.

How long will the review take?

The review should be completed, wherever possible, within 28 calendar days of the date of the request. The victim, subject, AA and any other relevant person will be updated if it is anticipated that this deadline will not be met and will be updated regularly thereafter on progress.

Reviews should be expedited where there is a risk that the deadline for charging a summary offence will expire during the time period for the review. The reviewer should consider liaising with the CPS in such circumstances.

What material will the reviewer consider?

The reviewer should be provided with the final report and proposed decision, and be given access to all material that was available to the original decision maker. The reviewer should also be provided with any representations made by or on behalf of the victim.

What standard will be applied?

The review will be comprised of two stages:

1. Does the reviewer consider that the referral conditions are met?
2. If yes, does the reviewer consider that the original referral decision was wrong?⁷

⁷ Guidance on whether a decision is 'wrong' is provided further below.

Stage 1: Are the referral conditions met?

The reviewer will consider the case afresh and reach a view on whether the test for referral under paragraph 23(2) of Schedule 3 to the PRA is met.

For cases in which a complaint was made or the conduct matter came to the attention of the AA before 29 October 2026, this test requires that the following conditions are fulfilled:

- i) The report indicates that a criminal offence may have been committed by a person (if any) to whose conduct the investigation related; and
- ii) the circumstances are such that, in the opinion of the Director General, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions.

For cases in which a complaint was made or the conduct matter came to the attention of the AA on or after 29 October 2026, this test requires that the following conditions are fulfilled:

- I) The report indicates that there is sufficient evidence to provide a realistic prospect of conviction for a criminal offence against a person (if any) to whose conduct the investigation related; and
- II) the circumstances are such that, in the opinion of the Director General, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions^[OBJ].

If the reviewer is unclear about anything relating to the investigation, they should engage with the team responsible for the investigation in the first instance.

The reviewer should pay regard to any representations submitted by the victim in support of a request for review⁸. Where the victim has provided new evidence, consideration may need to be given to whether it is necessary to reinvestigate.

If the reviewer is of the view that the test for referral is not met, then the proposed decision not to make a referral to the CPS will be confirmed.

If the reviewer is of the view that the test for referral is met, then the reviewer will go on to consider the proposed decision in order to determine whether it is wrong.

Stage 2: Was the original referral decision wrong?

A decision is not wrong simply because the reviewer disagrees with it. In reaching a view as to whether the decision is wrong the reviewer should consider whether any of the following non-exhaustive list of factors applies:

⁸ Where those representations have been submitted 'on time'. Where representations have been received late, they may be considered, subject to the discretion of the reviewer.

- a material error in the interpretation of the evidence
- an incorrect interpretation or application of the law
- an incorrect application of the test under paragraph 23(2) of Schedule 3 to the PRA, or a failure to follow relevant IOPC guidance on that test

If the reviewer determines that the proposed decision is not wrong, then the proposed decision will be confirmed.

If the reviewer determines that the proposed decision is wrong, then a new decision will be taken to make a referral to the CPS.

In the event that the time-limit for prosecuting a summary only offence has passed, no referral will be possible, and consideration will need to be given to the appropriate outcome.

Record-keeping

The reviewer must record:

- when a VRR has been received
- their decision, if relevant, as to whether an out of time request should be considered;
- their decision as to whether a matter will be referred to the CPS, with accompanying rationale.

The victim will be informed of the final decision and provide sufficient information to enable them to understand the decision that has been made. The lead investigator will at the same time update the AA, subject and any other relevant person of the decision and rationale.

The victim should be informed that there is no right of appeal or review of this decision, other than by way of judicial review through the courts.

Identification of further investigative steps and/or erroneous decision-making

It is possible that in undertaking their review, the reviewer identifies (i) further investigative steps that they consider should have been undertaken; and/or (ii) that decisions made regarding disciplinary matters appear to be erroneous. It is anticipated that these cases will be rare. In such circumstances, the reviewer should consider whether re-opening the matter or re-investigating may be appropriate.

Glossary

Appropriate Authority (AA)

The organisation responsible for assessing how to deal with a complaint. For example, whether it can be handled locally or reaches the criteria for referral to the IOPC. The appropriate authority may be the chief officer of the police force or the police and crime commissioner for the force.

Crown Prosecution Service (CPS)

The independent body responsible for, among other things, deciding whether criminal charges should be brought in England and Wales and prosecuting cases in court.

National Crime Recording Standard (NCRS)

The standard used by police forces in England and Wales to determine whether an incident should be recorded as a crime.

Relevant person

A person other than the victim, subject, or Appropriate Authority who is considered to have a legitimate interest in the case and may need to be informed of decisions or developments.

Statutory time limit (STL)

The legal time limit within which certain criminal offences, particularly summary-only offences, must be charged.

Subject

A person being investigated for conduct that may constitute a criminal offence or justify the bringing of disciplinary proceedings.

Summary-only offences

A less serious criminal offence that can only be dealt with in a Magistrates' Court.

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