

# Advisory Framework for the Interface and Information Exchange when Independent Office for Police Conduct investigations coincide with Local Child Safeguarding Practice Reviews in England

1. This advisory framework has been produced by the Independent Office for Police Conduct (IOPC) and Child Safeguarding Practice Review Panel (the Panel) (on behalf of Safeguarding Children Partnerships (SCPs)), to support lead and delegated safeguarding partners in the delivery of their local safeguarding children partnership arrangements in England.

This advisory framework is for local use by SCPs working with the IOPC's investigation teams. The framework gives SCPs flexibility to share information as needed, depending on the nature of the circumstances present, to progress their reviews in a timely way.

## 2. Parties

This advisory framework can be used by Safeguarding Children Partnerships (SCPs) and the Independent Office for Police Conduct ("IOPC").

## 3. Aims

Promote the welfare and safeguarding of children.

Provide a framework which can be used by the Parties to assist with their understanding of SCP Local Child Safeguarding Practice Reviews (LCSPRs) and IOPC investigations, as well as the sharing and exchange of relevant information between the IOPC with SCPs.

Ensure the Parties are informed about the process of LCSPRs and IOPC investigations, their impact upon one another, the statutory obligation on SCPs to report within six months, the need for IOPC investigations to be completed in a timely manner and the disclosure of relevant information.

Parties recognise the importance of cooperation and that the sharing of information with SCPs and the IOPC should be positively encouraged, unless there are specific reasons not to.

Support candour and transparency between the IOPC and SCPs and those professionals participating in their respective reviews and investigations.

## 4. Context

When a child dies or is seriously harmed as a result of suspected or known abuse or neglect, an LCSPR may be conducted by an SCP to identify ways that professionals and organisations can improve processes and the way they work together to safeguard children and prevent similar incidents from occurring. SCPs should not come to determinations on the actions of individuals. The focus of an LCSPR is on learning and not holding individuals to account.

LCSPRs and IOPC investigations will result in the gathering of material, some of which may be of value to either Party. The Parties recognise that both SCPs and the IOPC carry

out vital work in the interests of public safety, that SCP reviews and IOPC investigations need to progress without delays, and that the overriding interest in the safeguarding and welfare of children means lessons need to be learnt immediately in order to better protect children who may be at risk.

## 5. Roles

**The IOPC** oversees the police complaints system in England and Wales and has a duty to maintain public confidence in it. As well as Home Office police forces, its remit extends to other organisations with staff that have police-like powers. The IOPC:

- Independently investigates the most serious matters, including deaths and serious injuries following police contact and serious allegations of misconduct.
- Can oversee investigations carried out by police forces into allegations of misconduct or deaths and serious injuries following police contact where it decides not to investigate a matter independently.
- Deals with some types of reviews from individuals who are dissatisfied with the way the police have handled their complaint.
- Sets the standards by which police should handle complaints.
- Identifies from its work potential for learning to improve policing at a local and national level.

**The Child Safeguarding Practice Review Panel (the Panel)** was established under the Children and Social Work Act 2017 and operates under the relevant legislation and statutory guidance. The Panel has the power to commission reviews of serious child safeguarding cases and to work with local safeguarding partners to improve learning and professional practice arising from such cases. Underpinning the work of the Panel is its vision that all children are protected from abuse, neglect, and harm through excellent safeguarding practice. The Panel's mission is to provide robust oversight and leadership of learning across the child protection and safeguarding system. The provision of timely LCSPRs by Safeguarding Children Partnerships provides a central component of supporting the delivery of the Panel's ambitions for local multi-agency safeguarding arrangements.

**Safeguarding Children Partnerships** Multi-Agency Safeguarding Arrangements (for children) were set up under the Children and Social Work Act 2017 for the purpose of supporting and enabling local organisations and agencies to work together in a system where children are safeguarded, and their welfare is promoted. A key role in supporting partners to continuously improve their local practice to safeguard and promote the welfare of children derives from the learning generated from LCSPRs. Each SCP consists of three statutory safeguarding partners (a) the local authority (b) an integrated care board for an area any part of which falls within the local authority area and (c) the chief officer of police for an area any part of which falls within the local authority area.

## 6. Local Safeguarding Processes

Local authorities have a statutory duty under 16C(1) of the Children Act 2004 (as amended by the Children and Social Work Act 2017) to notify the Panel where:

A local authority in England knows or suspects that a child has been abused or neglected and (a) the child dies or is seriously harmed in the local authority's area, or (b) while normally resident in the local authority's area, the child dies or is seriously harmed outside England.

Though the responsibility to notify rests on the local authority, it is for all three safeguarding partners to agree which incidents should be notified in their local area. Where there is disagreement, the safeguarding partners should follow local dispute resolution processes. Upon receipt of a notification a request is made to the SCP to provide a rapid review of the incident to the Panel.

The purpose of the rapid review is to:

- gather the facts about the case, as far as they can be readily established at the time.
- discuss whether there is any immediate action needed to ensure children's safety and share any learning appropriately.
- consider the potential for identifying improvements to safeguard and promote the welfare of children.
- decide what steps they should take next, including whether to undertake an LCSPR.

The rapid review has three possible outcomes:

- Decide whether the case does not meet the criteria for a further review and no further action is taken.
- Proceed to an LCSPR.
- Decide whether the case also raises national issues and ask the Panel to consider undertaking a National Review.

Once a decision has been agreed to undertake an LCSPR by the SCP there is a statutory requirement to publish the review within 6 months from the decision date.

The purpose of LCSPRs is to identify improvements to be made to safeguard and promote the welfare of children. Understanding whether there are systemic issues, and whether and how policy and practice need to change, is critical to the system being dynamic and self-improving. Consequently, reviews may be conducted without any direct input from the alleged perpetrator of the abuse.

SCPs are responsible for:

- Commissioning and supervising reviewers for LCSPRs and agreeing the methodology to be used.
- Ensuring that practitioners, families, and surviving children are fully involved in reviews and invited to contribute their perspectives without fear of being blamed for actions they took in good faith.

## 7. IOPC Investigations

Most complaints about the police are dealt with by the relevant police force in which the incident occurred. Under the Police Reform Act 2002, police forces must refer certain matters to the IOPC. These include:

- Certain complaints against the police such as those that include an allegation of serious corruption or serious assault.
- Where there is an indication that a police officer or member of police staff has breached the standards of professional behaviour or committed a criminal offence, which meets the mandatory referral criteria.
- Where someone has died or been seriously injured and
  - i) at the time of death or serious injury the person had been arrested by a person serving with the police and had not been released or was otherwise detained in the custody of a person serving with the police; or
  - ii) at or before the time of death or serious injury the person had contact – whether direct or indirect – with a person serving with the police who was acting in the execution of their duties and there is an indication that the contact may have caused – whether directly or indirectly – or contributed to the death or serious injury.

Upon receipt of a referral from a police force, the IOPC reviews this to decide whether the matter requires an investigation and, if so, makes a decision on the mode of investigation. There are three different types of investigation:

- Independent - the IOPC investigates the matter using its own investigators.
- Directed - the investigation is carried out by the police under the direction and control of the IOPC.
- Local - the investigation is carried out by the police force on its own behalf, with no involvement from the IOPC.

The IOPC's investigations can be into a complaint, a conduct matter (a matter which is not and has not been the subject of a complaint, where there is an indication that a person serving with the police may have committed a criminal offence or behaved in a manner which would justify disciplinary proceedings), or a death or serious injury matter. Some of its investigations are misconduct and/or criminal investigations. However, many are not. All IOPC investigations gather evidence to establish all the circumstances and seek to identify learning to improve police practice and avoid recurrences of similar incidents.

At the end of the IOPC's investigation, it will produce a final report that summarises and analyses the evidence that has been collected.

The IOPC's final report along with a document containing the IOPC's opinion on whether a police officer or member of police staff should be subject to any disciplinary, performance or learning processes, will be sent to the police force involved to seek their views.

While the IOPC will consider the force's views, it will make the final decision on what happens as a result of its investigation. It is generally<sup>1</sup> the police force that carries out any disciplinary, performance or learning action.

If the IOPC thinks a police officer or member of police staff may have committed a criminal offence, it will pass on its report to the Crown Prosecution Service (CPS). The CPS is then responsible for deciding whether the person should be prosecuted.

## **8. Cooperation**

When there is an IOPC investigation and an LCSPR running in parallel it is expected that each Party's respective investigation or review will be able to progress side by side without compromising the position of each other.

At the earliest opportunity where it becomes known by either Party that an investigation or LCSPR is to take place, the respective Party should contact the local police force for the area where the child is normally resident. This includes where a serious incident has occurred outside of the area where the child is normally resident. This initial contact will be to establish whether an IOPC investigation or an LCSPR is being undertaken and the initial point of contact for those undertaking the investigation or review.

Once contact has been made there should be early liaison between both Parties to establish the parameters of each investigation and review, the timelines for undertaking the investigation and review, along with arrangements for ongoing engagement. As part of this early engagement each Party should share their Terms of Reference and provide a relevant point of contact. SCPs can be given 'interested person' status by the IOPC to allow for the sharing of information (see section 9).

IOPC investigation teams and SCPs are encouraged to agree locally to share information in the public interest and on a voluntary basis using this framework, to assist with the timely completion of reviews and investigations. However, it is for individual SCPs to determine whether they will share information on a voluntary basis.

Where parties do not agree to share information through the framework, they should consult section 13 on 'escalation'. It is important to note, however, that the IOPC can obtain material it reasonably requires for an investigation, including interview accounts of professionals participating in LCSPRs, as well as other relevant information, should it wish to do so by using their existing legal powers.

## **9. Disclosure and sharing of material**

LCSPR reviewers and investigation teams should take reasonable steps to identify, secure and consider material that is relevant to their review or investigation which is not in their possession. Material may be relevant to both a review or an investigation if it appears that it has some bearing on the incident or person being investigated or on the surrounding circumstances of the case.

Requests by SCPs for the disclosure of material held by the IOPC will be considered on a case-by-case basis. Where the material requested is held but was not generated by the IOPC (for example police logs or reports, or information from the GP or NHS trust records),

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<sup>1</sup> The IOPC has the power to present misconduct proceedings in certain circumstances.

all such requests should be redirected to the organisation that provided the material, in order to meet data protection obligations.

Investigation teams will consider whether to make the SCP an 'interested person'<sup>2</sup>, for the purposes of the IOPC's investigation so that it can share information as necessary and update the SCP on the progress of the investigation.

Where an IOPC investigation team has decided to disclose information for the specific purposes of assisting an SCP's review<sup>3</sup>, the following principles should be followed:

- Material will be provided promptly, subject to appropriate handling restrictions. Material should not be shared outside the SCP without the prior written agreement of the IOPC.
- Material should be securely shared and retained in accordance with the respective organisation's retention policy / relevant information management policies. Where appropriate, these policies may be shared.
- Both parties should keep a record of what material has been disclosed, including when it was disclosed and to whom it was disclosed.
- A record should also be kept of what, if any, material will be returned, and the date of destruction of that material.

In accordance with the UK General Data Protection Regulation and the Data Protection Act 2018 the IOPC and SCPs are considered to be the controllers of information processed for the purpose of their respective investigations or reviews. When information is shared between the Parties, it will be deemed to be shared controller to controller.

. Where either party receives a request under the Freedom of Information Act or Data Protection Act which could include material shared by the other party, the receiving party will notify and consult with the other party.

Where the SCP requests material which the IOPC considers to be sensitive or secret, the IOPC will notify the SCP of this and the basis on which it considers the material to be sensitive or secret. Sensitive material is material, the disclosure of which would give rise to a real risk of serious prejudice to an important public interest, for example, information that could potentially undermine a police investigation or prosecution or reveal confidential policing tactics or techniques. Secret material is material that justifies heightened protective measures to defend against determined and highly capable threats, e.g., where compromise could seriously damage military capabilities, international relations, or the investigation of serious organised crime.

Where these circumstances arise, the IOPC will seek advice and liaise with the SCP to establish if the sensitive or secret material can be shared in an appropriate format (for example, by editing or redacting parts of the material). In the majority of cases, it is anticipated that dialogue will resolve any difference of opinion between the SCP and the IOPC about whether sensitive or secret material should be shared, including any agreed handling arrangements. If the matter is unable to be resolved, please refer to section 13 (escalation).

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<sup>2</sup> 'Duty to provide information for other persons', Section 21, Police Reform Act 2002.

<sup>3</sup> and if applicable / where relevant, any other material generated by the IOPC investigation team in the course of carrying out their statutory functions.

## 10. Interviews

The IOPC and SCP will conduct separate interviews with key personnel, including police officers and members of police staff. If the IOPC investigation team or an SCP obtains information from key personnel when undertaking their respective investigation or review which is considered to be relevant to the other Party's investigation or review it should be brought to the attention of the other Party.

Whilst both Parties recognise the importance of cooperation and that the sharing of information with the SCP and IOPC should be positively encouraged, the sharing of information is not automatic and there will be, by exception, specific reasons not to. If a decision is made not to share the product of their interviews when requested, the Parties should explain their reasons why.

## 11. Reports and Publication

Investigation teams and SCPs should share final versions of their respective reports with each other prior to their publication, subject to any legal restrictions.

If an LCSPR has completed prior to the IOPC's investigation concluding, the SCP should ask the IOPC whether it has any representations on the publication of its report. This is to ensure that:

- There is no content in the LCSPR report, the publication of which, would prejudice any potential future criminal, disciplinary and/or coronial proceedings.
- Any information generated by the IOPC which is referenced in the LCSPR report is accurately cited.
- There are no court reporting restrictions in place through criminal proceedings which would prevent specific details being in the published report (this only relates to proceedings the IOPC is directly involved in, or which have arisen as a direct result of an IOPC investigation).

## 12. Risk of prejudice to an IOPC investigation

While an IOPC investigation should be progressed expeditiously, there may be complex enquiries which means it is not completed within the time-limit for publication of the LCSPR (6 months). Criminal, disciplinary and/or coronial proceedings may also occur following completion of an IOPC investigation.

As the LCSPR is concerned with gathering potential learning for the safeguarding of children, it may not be appropriate to wait for the completion of an IOPC investigation and any associated proceedings before proceeding with the LCSPR process.

It is important that both Parties engage with each other so that the Parties can make an informed decision about any likely impact the LCSPR process may have upon an IOPC investigation or any proceedings.

If the IOPC is of the view that there would be prejudice to the investigation if the LCSPR were to proceed while the investigation or any proceedings were still ongoing, they will notify the SCP of this, as well as the reasons for their opinion. If criminal, disciplinary and/or coronial proceedings are taking place, the IOPC should consult with the organisation(s) co-ordinating those proceedings prior to notifying the SCP<sup>4</sup>. The IOPC will provide reasons for any request that the SCP pause (or suspend) the LCSPR.

Upon receipt of this notification, the SCP will consider and decide what steps to take to address these concerns, for example delaying the publication of the LCSPR.

### 13. Escalation

In any case where a disagreement concerning information sharing between the Parties arises that cannot be resolved, the issue should be escalated to the relevant IOPC Operations Manager with responsibility for the investigation and the delegated safeguarding partner (DSP) appointed as the SCP for the multi-agency arrangements to discuss matters, in consultation with the two other DSPs to resolve the dispute locally. If the disagreement still cannot be resolved the DSP chair should escalate the issue to the three lead Safeguarding Partners (LSPs) for resolution<sup>5</sup>. The IOPC Operations Manager should escalate the issue to the Director of Investigations.

The legislative provisions enable the Parties to require information to be provided, for the purpose of their respective investigation or review. If that request is not complied with, it can be escalated to the court for a decision. Specifically:

- Section 16H Children Act 2004 sets out the ability for any of the safeguarding partners<sup>6</sup> for a local authority area to request a person or body to provide information for the purpose of enabling or assisting an LCSPR. The body or person must comply with that request.
- Paragraph 19ZA, Schedule 3 Police Reform Act 2002 provides the IOPC with the power to serve an information notice, to request any person to provide information which is reasonably required for the purposes of carrying out their investigation.

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<sup>4</sup> For criminal proceedings this will be the Crown Prosecution Service, for misconduct proceedings this will be the Appropriate Authority, and for coronial proceedings this will be the Coroner conducting any inquest.

<sup>5</sup> The lead safeguarding partners for SCPs are: Chief Executives of Local Authorities, Chief Executives of the ICBs, and Chief Officers of police forces.

<sup>6</sup> A safeguarding partner in relation to a local authority area in England is defined under the Children Act 2004 Section 16E (as amended by the Children and Social Work Act, 2017) as:

- (a) the local authority
- (b) an integrated care board for an area any part of which falls within the local authority area
- (c) the chief officer of police for an area any part of which falls within the local authority area