

FOCUS

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SUSPENDING INVESTIGATIONS AND OTHER PROCEDURES

Now that you have read our guidance on suspended complaint investigations, the case studies in this interactive learning tool are designed to assess your understanding about suspending complaint investigations or other handling procedures, under Part 2 of the *Police Reform Act 2002*. They will provide you with the opportunity to reflect on your knowledge in this area.

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HOW TO USE THIS DOCUMENT

1. Click on a case study below.
2. Read the scenario.
3. Use the space below the questions on the 'ask yourself' page to answer the questions.
4. Next, read through the resolution.
5. Use the space under 'your notes' for any extra notes you want to make.

CASE STUDIES

1. What is a valid reason to overturn a decision to suspend a complaint investigation?
2. Repeat challenges from the complainant
3. Power to suspend – appealing against a criminal conviction
4. Power to suspend – Understanding the criteria of a criminal investigation or proceeding
5. Handling the resumption of a complaint investigation following completion of criminal proceedings
6. Complaints involving statutory time limits for prosecution
7. Investigating a complaint or conduct matter which involves criminal behaviour
8. Providing rationale for a suspension decision

Your notes



Case study one

Scenario

What constitutes a valid reason to overturn a decision to suspend a complaint investigation?

The complainant was arrested for breach of a restraining order. He made a complaint to the police that his arrest was based on false allegations, and he should never have been arrested. He also complained about the seizure of personal possessions and the overall approach and behaviour from the arresting officer, which he believed to be harassment. The complaint was recorded and the appropriate authority (AA) decided to suspend the complaint based on the link with the ongoing criminal matter.

The complainant was unhappy with the decision, explaining to the police that he was very ill and the complaint investigation should not be delayed.

The complainant asked the IOPC to intervene reiterating he was ill, that he could provide details of his diagnosis and that his complaint should be investigated as a matter of urgency, so that the criminal proceedings against him could be dropped.



Case study one

Ask yourself...

**BACK TO
SCENARIO**

How would you sensitively respond to the complainant, given their serious illness?

Would you consider fast-tracking/prioritising the complaint investigation after the criminal proceedings concluded?

Can you think of a scenario where it would be appropriate to overturn a decision to suspend a complaint investigation?

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RESOLUTION



Case study one

Resolution

**BACK TO
SCENARIO**

In this case, the AA was sympathetic to the complainant's circumstances, but appropriately advised the complainant that the IOPC has a discretionary power to intervene and review whether the complaint investigation should be suspended.

Having reviewed the information provided by the AA, the IOPC agreed with the decision that the complaint investigation should be suspended. Although the complainant was ill, the IOPC decided that court proceedings should take primacy over progressing the complaint against the police. This was because the evidence that would be relied upon in both the criminal proceedings and the police complaint matter, was the same. To investigate the complaint and draw conclusions before the criminal proceedings were concluded, would prejudice the criminal proceedings. The possible prejudice was not outweighed by the public interest in ensuring a prompt investigation of the complaint.

While a serious illness is a sensitive situation, it would not (on its own) be a reason to overturn the decision to suspend a complaint investigation. The complaint handler should consider whether a parallel investigation, alongside the criminal investigation, was possible in some cases. They should also consider prioritising the complaint investigation if, for example, the complaint against the police is more serious than the criminal matter against the member of the public. If the complaint handler considers overturning a decision to suspend a complaint investigation, the Crown Prosecution Service (CPS) should be consulted.

See [‘Reviewing decisions to suspend’](#) in Focus 24 – suspending investigations and other handling procedures for more information.

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ASK YOURSELF



Case study two

Scenario

Repeat challenges from the complainant

The complainant submitted a complaint to the police that he'd been treated unfairly when he was arrested for a number of offences, including assault. The AA recorded the complaint and decided to suspend the investigation. The complaint handler wrote to the complainant and advised him that the evidence required for the complaint investigation would be the same evidence needed for the criminal investigation and would likely form a significant part of his defence. They explained that investigating the complaint presented a prejudice to the criminal case. The complainant told the police he was unhappy with the suspension decision and he was advised to contact the IOPC as it has a discretionary power to intervene, if he objects to the decision.

Instead of following the process of contacting the IOPC to intervene, the complainant submitted more correspondence to the police about the same matter. After making several new complaints, the complainant then asked the IOPC to intervene in the decision to suspend the original complaint investigation. The IOPC reviewed the information and decided that the complaint investigation should remain suspended until the court proceedings were complete. The IOPC wrote to the complainant explaining the reason for this decision.

Following this decision, the complainant made repeat requests to the IOPC to reconsider their decision, usually when the complainant was required to answer their bail conditions.



Case study two

Ask yourself...

**BACK TO
SCENARIO**

How would you respond to repeat representations from the complainant?

What actions would you consider to manage a complainant's expectations when receiving repetitive correspondence?

CONTENTS

RESOLUTION



Case study two

Resolution

**BACK TO
SCENARIO**

In this case, with each additional letter received, the complaint handler responded appropriately, advising the complainant that any new matters had been recorded and added to the original complaint. They referred him back to the suspension decision and the original letter.

For each repeat request for the IOPC to intervene, the complaint handler appropriately provided an update about the progress of the criminal process. The IOPC was satisfied that prejudice still existed and advised the complainant that the suspension of the complaint investigation should remain until completion of the criminal proceedings.

Where there has not been a substantial change in circumstances, we would not expect the suspension decision to change.

There are no limits on the number of times a request can be made to the IOPC to intervene. However, the IOPC would not be expected to consider repeat requests to review the decision where the circumstances have not changed. Each time the AA reviews a suspension decision, it is important that up-to-date information is considered about the status of the criminal proceedings and the likely prejudice.

See [‘Repeat representations from the complainant’](#) in Focus 24 – suspending investigations and other handling procedures for more information.



Case study three

Scenario

Power to suspend - appealing against a criminal sentence

A man made a complaint to the police about not being allocated an appropriate adult while in custody and during a police interview. The complainant said that the police had been made aware at the time of his arrest about his mental health issues, but mental health support and an appropriate adult was not provided.

The complaint was correctly suspended, at the time, as it raised issues around obtaining evidence by interviewing a suspect who identified as having vulnerabilities and mental health issues, without the appropriate safeguards being in place. This would have prejudiced criminal proceedings and the admissibility of evidence.

The complainant was later convicted at Magistrates Court and imprisoned. The complainant raised an appeal against his sentence by the court. As a result, the AA maintained that the complaint investigation should remain suspended, because the appeal was linked to the court process and resuming the complaint investigation would prejudice criminal proceedings.



Case study three

Ask yourself...

[BACK TO
SCENARIO](#)

Do you agree that the complaint should remain suspended, because of the link to the appeal against sentence?

In accordance with the IOPC Statutory Guidance, are you confident about what amounts to specific, identified and significant prejudice?

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Case study three

Ask yourself...

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Can you think of a scenario where progressing the complaint would impact on an appeal?

Could your correspondence to complainants be improved, to clearly set out the rationale for suspending a complaint investigation?

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Case study three

Resolution

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In this case, the IOPC disagreed with the AA that resuming the complaint investigation would prejudice the criminal proceedings. The IOPC decided that the complaint investigation should be resumed under Regulation 40(2) because the appeal was against the sentence and not the conviction. The AA was told to contact the complainant to ask if they wished to proceed with the complaint.

For suspension to apply under Regulation 40, resuming the complaint investigation must prejudice the appeal. Regulation 40 provides the discretion to suspend an investigation if it would prejudice any criminal investigation or proceedings. However, IOPC Statutory Guidance is clear that the suspension decision should be applied as a discretion, not an obligation. [Chapter 15 of the IOPC Statutory Guidance](#) states that: “there should be **specific, identified** prejudice and that prejudice should be **significant**.” Simply having a link to criminal proceedings is insufficient in the absence of a rationale for the prejudice. In this case, the decision by the AA did not articulate what impact the potential prejudice might be. As no information was provided, by the AA (or could be seen by the IOPC) as to what the prejudice was, the IOPC consulted with the CPS and based on their advice, decided that the complaint investigation should be resumed under Regulation 40(2).

In cases where there is an appeal against a sentence, the resumption of a complaint investigation is unlikely to present prejudice to the proceedings. Whereas an appeal against a conviction carries the possibility of future criminal proceedings, by way of a retrial, and may therefore be prejudiced by the resumption of the complaint investigation.

See [‘Criminal proceedings after a court case’](#) in Focus 24 – suspending investigations and other handling procedures for further information.

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[ASK YOURSELF](#)



Case study four

Scenario

Power to suspend – understanding the criteria of a criminal investigation or proceeding

Police were called to attend the scene of man found deceased at his home. The death was not deemed to be suspicious, and the details were sent to the coroner. The deceased man's brother contacted the police to raise concerns that the police had failed to investigate evidence connected to his brother's death. The complaint was recorded.

The complainant was informed by the complaint handler that the investigation of his complaint was suspended until the coroner's inquest had concluded. The complainant was advised that if the police continued to investigate his complaint, it would prejudice ongoing proceedings related to his brother's death. The complainant made a second complaint to the police about their decision to suspend his first complaint. In response to the second complaint, the AA decided to handle the matter outside of Schedule 3. The complaint handler called the complainant and provided him with information about contacting the IOPC about the suspension decision. The second complaint was then considered to be resolved.

The complainant asked the IOPC to intervene in the suspension decision. The IOPC reviewed the rationale provided by the AA for suspending the complaint investigation.



Case study four

Ask yourself...

[BACK TO
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What would you do in these circumstances? In this scenario would you consider this to be a criminal investigation or proceeding? Would you suspend or not?

Where would you go for advice or guidance on what meets the requirements of a criminal investigation or proceeding?

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Case study four

Resolution

BACK TO
SCENARIO

After reviewing the AA's rationale for suspension, the IOPC disagreed with the AA's decision and directed them to continue the investigation. In this case, the AA had misapplied the power to suspend the complaint investigation. A coroner's inquest does not meet the criteria for a criminal investigation or proceeding as set out in Regulation 40.

The power to suspend a police complaint investigation under Regulation 40 outlines that **'an appropriate authority may suspend any investigation or other handling which, in the opinion of the Director General or appropriate authority, would, if it were to continue, prejudice any criminal investigation or proceedings'**.

As there are no related criminal investigation or proceedings in this case, the power to suspend cannot be applied. Other legal matters which do not meet the criteria of a criminal investigation or proceeding include misconduct hearings and civil proceedings.

The decision to handle the second complaint outside of Schedule 3 was appropriate in this situation. However, following the first complaint, the complainant should have been advised that the IOPC has a discretionary power to intervene and consider the suspension decision. Had this information been given at an earlier stage, it could have prevented the second complaint.

See ['What qualifies as criminal investigation or proceedings?'](#) in Focus 24 – suspending investigations and other handling procedures for more information.



Case study five

Scenario

Handling the resumption of a complaint investigation following completion of criminal proceedings

A woman made several complaints to the police about how she was treated during her arrest. The woman raised concerns about her arrest, in particular, that offensive comments were made by the arresting officer and a lack of adjustments provided for her autistic needs. The AA recorded the complaints. The woman was advised by the complaint handler that her complaints would be investigated, but were to be suspended pending the outcome of a criminal trial, in which the woman was a suspect of police assault during her arrest. The complaint handler told the woman that they would update her once the criminal proceedings were complete to check if she would still like to continue her complaints.

Following completion of the criminal proceedings, a complaint handler emailed the complainant in response to her complaints. The complaint handler advised the complainant that they considered that the officers had acted appropriately during the arrest. No formal investigation was conducted into the complaints, and no outcome letter was provided to the complainant. Following no response from the complainant, the complaint handler closed the complaint.

The complainant contacted the IOPC to further complain about how her complaints were handled. The complainant told the IOPC that she was confused and upset about how her complaints were handled and did not understand what recourse she had to resolve the matter.



Case study five

Ask yourself...

**BACK TO
SCENARIO**

What approach would you have taken to the handling of the complaints once the criminal proceedings had concluded?

As part of any contact with the complainant, what key elements would you consider to be important to discuss with them, before resuming the handling of the complaint?

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RESOLUTION



Case study five

Resolution

**BACK TO
SCENARIO**

Following the contact from the complainant, the IOPC liaised with the AA and identified that the complaint handler for the case had incorrectly handled the resumption of the investigation by dealing with the complaint informally. This meant that the woman had not received a right to review of her complaints. The IOPC reminded the AA of their statutory obligation to handle the complaint under Schedule 3 to the *Police Reform Act 2002*, as the complaint had been recorded. The AA accepted the handling had been incorrect and resumed handling of the complaint under Schedule 3.

The initial decision to record the complaints under Schedule 3 was correct, due to the nature of the complaint and the allegation of discrimination. The decision to suspend the investigation was also appropriate, as the criminal trial was intrinsically linked to the woman's complaints.

However, once handling of the complaint investigation had resumed, the complaint handler should have continued handling the complaint under Schedule 3 and not dealt with the matter informally. It is important to ensure that there is clear communication with complainants about the details of their complaints and what has been recorded. Where a complaint is resumed following suspension, complainants should be contacted to check if they would like to continue with their complaint. This includes engaging with the complainant to check the specifics of the complaint have been recorded correctly and haven't changed, and to discuss how the complaint will be handled. Changing from dealing with the matter formally to informally resulted in confusion for the complainant. As the matter had been dealt with outside of Schedule 3, the woman was also not informed of her right to review of her complaints.

See [‘Resumption of suspended complaint investigations and other handling’](#) in Focus 24 – suspending investigations and other handling procedures for further information.

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ASK YOURSELF



Case study six

Scenario

Complaints involving statutory time limits for prosecution

A man contacted the police to make a complaint about excessive use of force applied by officers during his arrest for criminal damage. As part of his complaint, the man submitted a video of the arrest, filmed by a bystander on their mobile phone. The AA recorded the complaint and decided to handle it otherwise than by investigation.

After reviewing the complaint details, the complaint handler contacted the complainant to advise him that his complaint would be suspended until the criminal matter was complete. The complaint handler advised the complainant that his complaint and the criminal matter were closely related, as the alleged use of force occurred during his arrest. The complainant objected to the suspension decision and seven months later, asked the IOPC to intervene. He stated that it was in the public interest for his complaint to be investigated.

While assessing the decision to suspend the handling of the complaint, the IOPC considered whether the complaint involved any criminal allegations against the arresting officers which were subject to a statute of limitations. In this case, common assault would have been the most likely charge brought against the arresting officers. During the IOPC's assessment of the suspension, the impact that the suspension delay could have on key investigative opportunities was also important. This included ensuring that all evidence relevant to the complaint could be secured for review on resumption of handling.



Case study six

Ask yourself...

**BACK TO
SCENARIO**

Would you consider the impact of any statutory time limits for alleged offences when deciding whether to suspend a complaint investigation?

How often do you consider whether it is in the public interest to proceed with the handling of the complaint?

In this suspended complaint investigation, what steps would you take to preserve any evidence that would not prejudice criminal proceedings? How would you approach getting advice on what evidence should be identified and preserved, if you are unsure?

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RESOLUTION



Case study six

Resolution

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Following their assessment, the IOPC did not agree with the complainant that it was within the public interest in this case to remove the suspension and continue the complaint. The IOPC decided that the suspension of the complaint handling should continue, but the decision to suspend should be kept under regular review. The complaint matter was identified as inherently linked to the criminal matter and so continuing the handling of the complaint would prejudice the criminal proceedings. The IOPC advised the AA to take steps to review the arresting officer's body worn video footage of the incident and preserve it. The IOPC also suggested that once the criminal damage matter had concluded, this complaint should be handled by investigation, as opposed to other than by investigation. This was due to the serious nature of the complainant's assault allegation.

In this case, the six-month statute of limitations for the potential common assault charge against the officer had expired before the IOPC received the complainant's request to intervene. Although the complaint handler correctly identified that there was an intrinsic link between the criminal matter against the complainant and the complaint investigation, they did not consider whether suspending the investigation or other handling would prejudice the expiration of the six-month statutory time limit for the prosecution of the common assault allegation. It is important for the AA to factor this into their decision-making on whether to suspend the handling of a complaint. In this case, the AA should have consulted with the CPS to identify the prejudice. CPS or legal advice can also highlight opportunities to preserve evidence that would not prejudice the criminal proceedings, such as body worn video footage. More details are provided in [chapter 15 of the IOPC Statutory Guidance](#).

See ['Impact of delay'](#), ['Securing readily available evidence'](#) and ['Consulting with the Crown Prosecution Service'](#) in Focus 24 – suspending investigations and other handling procedures for further information.

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[ASK YOURSELF](#)



Case study seven

Scenario

Investigating a complaint or conduct matter which involves criminal behaviour

A woman contacted the police control room to complain that someone in her family, who is a member of police staff, had used their police connections to coerce an older relative for financial gain. The control room passed the allegation to the Fraud Investigation Unit, and it was recorded as a crime.

The Fraud Investigation Unit began a criminal investigation, but concluded there was insufficient evidence to support a criminal prosecution. The matter was then passed to the PSD to consider the complaint and any misconduct against the staff member.



Case study seven

Ask yourself...

[BACK TO
SCENARIO](#)

How do you deal with a complaint against the police that also involves an element of criminal behaviour? Do you have sufficient processes in place to ensure that complaints against the police are always sent to the PSD in the first instance?

Do you have processes in place to ensure the PSD are notified of any reported crimes where the suspect is identified to be a person serving within the police?

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Case study seven

Ask yourself...

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Would you have sought legal advice before deciding whether to suspend or continue the complaint investigation?

Where a criminal matter is investigated outside of the PSD, do you have good information sharing channels to ensure the PSD is kept up to date and evidence is shared for the complaint or conduct investigation?

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RESOLUTION



Case study seven

Resolution

BACK TO
SCENARIO

In this case, the complaint handler assessed the nature of the complaint and correctly identified that it involved a criminal element that should be dealt with by a specialist department. However, when the initial complaint was made about the police staff member, it should have first been sent to the PSD, to record and assess the complaint. If a complaint against the police also includes an element of criminal behaviour, the crime should also be recorded. A decision should then be made on how the misconduct and criminal elements of the PRA investigation will proceed.

There is no requirement to suspend the misconduct element of the investigation in this scenario. This is because the complaint constitutes one allegation, that incorporates both a criminal and misconduct element and should form part of the same PRA investigation. The complaint against the police isn't intrinsically linked to a separate (but connected) criminal matter – they are the same thing. If it is determined that the criminal matter is best investigated by a specialist team, in this case the Fraud Investigation Unit, then the criminal matter can be progressed outside of PSD. However, the misconduct element can proceed **at the same time** as the criminal element.

Where elements of a complaint are to be handled by a team outside of PSD, PSDs should have processes in place to ensure they receive regular updates on the progress of the investigation. Information and evidence should be shared with PSD to be considered as part of misconduct element of the investigation.

See [‘Misconduct and criminal elements of a Police Reform Act 2002 investigation’](#) in Focus 24 – suspending investigations and other handling procedures for further information.



Case study eight

Scenario

Providing rationale for a suspension decision

The complainant had been arrested for offences relating to rape and domestic abuse against their ex-partner. These offences were under investigation at the time a complaint was received. The complainant made a complaint to the police about the length of time the criminal investigation was taking and because the police had not made a decision to take no further action (NFA), which the complainant felt was reasonable in the circumstances.

The complaint was recorded, and a decision was made to suspend the complaint investigation. The complainant objected to the decision and asked the IOPC to intervene, stating that they were unable to understand why the complaint would not be progressed. The complaint handler simply stated that the complaint and ongoing criminal proceedings were linked.



Case study eight

Ask yourself...

[BACK TO
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When explaining why a complaint investigation has been suspended, what information should you provide?

Consider any templates that you use, and if they encourage the author to clearly explain what the prejudice is.

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Case study eight

Resolution

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After reviewing all the information available, the IOPC agreed with the AA that the complaint investigation would consider the same statements and evidence that would form part of the complainant's defence in court, therefore demonstrating prejudice to the criminal proceedings.

During their consideration of the suspension decision, the IOPC noted that the AA had not provided the complainant with a sufficient rationale for suspending the complaint. They gave no explanation of what the prejudice may be or how it would be caused if the complaint were to be investigated. When communicating their decision to the complainant, the IOPC provided a detailed rationale on the suspension decision. This meant that the complainant was able to understand why the AA had made their decision.

[IOPC Statutory Guidance](#) states that in circumstances where an investigation or other handling of a complaint is suspended, the complainant should be notified in writing and given a rationale for the decision. It is the role of the complaint handler to provide a clear explanation about why the suspension is appropriate and must demonstrate to the complainant what the prejudice is.

Simply identifying a link between the complaint and criminal process does not provide sufficient detail as to why there would potentially be a prejudice. This information will also assist if the complainant asks the IOPC to intervene, as the rationale for making the decision to suspend a complaint will be available for the IOPC.

See **['Notifying complainants of decisions to suspend'](#)** in Focus 24 – suspending investigations and other handling procedures for more information.

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[ASK YOURSELF](#)



Your notes

Use the space below for any additional notes you wish to add.