

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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Reasonable and proportionate handling under Schedule 3 otherwise than by investigation

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Taking a flexible approach to handling a complaint

When it is not reasonable and proportionate to conduct an investigation into a complaint recorded under Schedule 3 of the *Police Reform Act 2002*, and an investigation is not otherwise required, the complaint handler must decide how to address the complaint.¹ When making this assessment, the complaint handler may wish to consider the following questions:

- > Do I know enough about what the complainant wants?
- > What outcome did the complainant indicate they were seeking?
- > What can reasonably be done to remedy the issue?
- > Is there potential learning through reflective practice?
- > Is there a wider context? Does the matter raise additional concerns to those articulated by the complainant?
- > What actions do I need to take to get the information needed to address the complaint?
- > Is it reasonable and proportionate to take further action?

Even when a complaint handler is not carrying out a formal investigation, they should maintain a thorough audit trail for the actions they take. All actions taken during the handling of the complaint should be documented. This includes the decisions taken and the reasons for these. All the documents and evidence reviewed or created when addressing the complaint must be saved. If the complainant requests a review,² this documentation and evidence will be considered by the person handling the review.

Engaging with the complainant

During the initial contact with the complainant, complaint handlers should ask them if they have a preferred method of contact. Meeting the complainant face to face can be effective, as this builds rapport and demonstrates a focus on customer service. Putting a 'face to a name' often builds trust in a complaint handler. It gives complaint handlers the opportunity to explore exactly what the complaint is about, and what outcome the complainant might be seeking. The complainant can also voice any concerns that they might not have wanted to, or felt able to, articulate in writing.

However, if the complainant has expressed a preference to communicate via phone or email, then this should be respected. A meeting may also not be feasible or proportionate in some cases. Complaint handlers should consider setting out the scope of what they plan to do to address the complaint and sharing this with the complainant, so that they know what to expect from the start.

Managing the complainant's expectations

There may be situations in which the complainant's expectations may be unrealistic or unachievable. Complaint handlers must ensure they are robust in managing complainants' expectations. If a complainant's expectations are disproportionate, this should be managed sensitively rather than avoided – the complaint handler should explain why a particular action or outcome is not achievable. Managing a person's expectations from the beginning can have a significant impact on their satisfaction with the eventual outcome.³

1 You can read more about the decisions surrounding how a complaint is handled in our Focus issue titled Handling complaints - decisions and thresholds.

2 Complainants have a right of review against the outcome of complaints recorded and handled under Schedule 3 of the *Police Reform Act 2002*. This process considers whether the outcome of their complaint was reasonable and proportionate.

3 Action Fraud is the UK's national reporting centre for fraud and cybercrime.



CASE STUDY ONE

Effective engagement with complainant

A man attended a police station and explained that he had been defrauded of £2,000 through an online scam when trying to buy a car. When he called his bank, they told him that if the police contacted them urgently they would be able to freeze the funds he had transferred to pay for the vehicle. He was told by an officer at the station that they couldn't assist him and to call the national fraud telephone number. He complained about this advice, stating that he was shocked and disappointed, and that the service he received was dismissive and lacked urgency. He stated that he wanted his complaint to be recorded.

The complaint was recorded, and the complaint handler arranged to meet the man to discuss his complaint. During the meeting the complaint handler asked what action he would like to be taken. The man said that staff need to provide people with the correct advice and should have training on this. He wanted the officers to know that their dismissive manner made him feel that they didn't care. The complaint handler explained that the advice the officers had given was correct. They went on to explain about Action Fraud, the process and the level of specialist training that staff in Action Fraud had. During the meeting, the man acknowledged that he had perhaps misinterpreted what his bank had advised him to do. Having heard an explanation for this advice, he understood why the officers had given it. However, he remained upset by the way in which the advice was given.

Together, the complaint handler and complainant agreed for the officers involved to be asked for their response to the man's perception of their manner.

By engaging with the complainant and exploring the complaint, the complaint handler was able to clarify that the advice given was correct. They assured the complainant about the level of training provided to officers, and emphasised that his concerns about their manner would be treated seriously. They also explained that his feedback about his experience was valued.

CASE STUDY TWO

Managing unreasonable expectations

A woman complained that during the search of her home, an officer was extremely rude and patronising towards her and made her feel like she was a criminal. She stated that she was still upset about the incident, and that the officer should not be dealing with the public. She had lost all trust in the police.

After reviewing the complaint, the complaint handler concluded that the woman was unlikely to be satisfied with it being dealt with outside Schedule 3. The complaint handler formally recorded the complaint and contacted the woman to discuss it, seeking to establish how she felt the officer was rude. The woman stated that the officer was abrupt and kept dismissing her concerns about her belongings being seized. The woman stated that their manner was totally unacceptable and she wanted them to be sacked.

The complaint handler explained the complaints process and the potential outcomes, depending on how complaints are handled. They explained why this complaint would be handled otherwise than by investigation and that this type of complaint would not result in an officer being dismissed. However, they also assured her that her concerns would be addressed and that the officer would be spoken to in order to provide a response to her complaint.

By explaining the complaints process to the complainant and being clear from the start about how the complaint would be handled, the complaint handler managed the complainant's unreasonable and disproportionate expectations.

Addressing a complaint

When dealing with a complaint, a flexible and case-by-case approach should be taken. This ensures that the complaint is addressed, and that fair and effective decisions are made, taking into account the impact on all those involved in the complaint. Often, the elements required to respond to a complaint are:

- > a response to the allegations from the police officers or staff involved in the incident
- > the complainant's account of what happened
- > reviewing the available evidence and any relevant policies

Other things to consider include:

- > arranging for the complainant to view relevant footage so they can see for themselves the answer to their complaint
- > Discussing with the officer's supervisor whether it would be appropriate for the officer to participate in reflective practice
- > arranging mediation between the parties involved – if appropriate, and if all parties are amenable
- > if other agencies are involved, organising a multi-agency meeting (with the complainant, where appropriate) to ensure that the wider context to the complainant's concerns is understood and shared

When deciding which lines of enquiry are needed to handle a complaint, the complaint handler should balance what is reasonable and proportionate for the nature of the allegation and what will satisfy the complainant that their concerns have been fully addressed. This means that two very similar complaints could be handled differently. Complaint handlers are not expected to follow unreasonable or disproportionate lines of enquiry because the complainant wants them to. However, in some cases it may be reasonable to take more actions on a complaint to reassure a complainant that their concerns have been fully examined and restore their confidence in the police.

Reflective practice

Reflective practice is a way of handling a complaint dealt with otherwise than by investigation (OTBI). It uses similar techniques to those used in the reflective practice review process (RPRP). While they are similar, reflective practice is a way of handling a complaint, whereas RPRP (which is a formal process under the legislation) is a possible outcome of a complaint. Reflective practice provides an opportunity for police officers to participate in a structured discussion with their line manager, to reflect upon and learn from their experiences. It is intentionally designed to be non-adversarial and is not a disciplinary process.

Learning from reflection should be promoted within forces as an integral way to learn and improve from complaints. It should also be promoted as a key skill and mindset to enhance personal and professional effectiveness. Reflective practice is not only an effective way to handle a complaint if an officer initially acknowledges that they may have handled a situation differently. It may also be an appropriate tool where an officer is initially unable or reluctant to acknowledge the impact of their behaviour. It is these very situations where an officer might benefit from the opportunity to learn from reflection.

Where it is reasonable and proportionate to handle a complaint (about the actions of an officer) OTBI, the complaint handler usually passes the complaint to the officer's supervisor. The supervisor will try to understand the officer's experience of the situation by asking the officer to give an account of the behaviour that was complained about. At this point, handling may involve reflective practice, to ensure that reflection takes place in a timely manner. Reflection creates the opportunity for the officer to consider and discuss with their supervisor:

- > what happened and how they and others might have felt
- > the actions they took – what worked well, what didn't work well and the potential impact/consequences
- > what they learnt and how they might deal with the situation differently in the future, and
- > areas for development and the options for addressing them

Officers should be actively encouraged to participate in reflective practice. It is important they understand and acknowledge the value of their participation and engagement, and they feel involved in the discussion. However, if an officer refuses to engage in reflective practice, it should not be considered a suitable way of resolving the complaint. The complaint handler should consider what other action is necessary. If an officer refuses to engage, their behaviour may need to be considered against that expected under the standards of professional behaviour.

Where reflective practice is used as a way to handle a complaint OTBI, the complaint handler should give information about it (which can be disclosed) to the complainant in the outcome letter. This could include the officer's perspective and what they have reflected on and learnt from the matter. This will enhance customer service and enable the complainant to fully understand what has been learnt from reflection.



CASE STUDY THREE

Woman complains about lack of investigation updates

A woman made a complaint that the Officer in Charge (OIC) had failed to provide regular updates about her reports of anti-social behaviour in her street. She complained that when she did receive an update, it was brief and lacked any detail about what was happening. She stated that it made her feel as if the police were not treating the matter seriously and they did not care.

The complaint was recorded, and a decision was made that it could be handled otherwise than by investigation. The complaint handler passed the complaint to the OIC's supervisor. The supervisor spoke to the OIC about the complaint and reviewed the updates provided to the complainant. The OIC said they had provided regular, albeit brief, updates to the complainant about the investigation, apart from in one instance, where there was a one week delay due to an urgent matter. They explained they had taken a number of actions and were treating the matter seriously, however due to other work tasks, they felt they had not had enough time to provide the complainant with more detailed updates. The supervisor considered that reflective practice would be an appropriate way to handle the complaint, so the OIC could reflect on the importance of providing meaningful updates and agree what actions should be taken to better manage their workload and time.

Upon reflection, the OIC acknowledged that while they had been busy recently, they could have better prioritised their work or delegated other less urgent tasks so they had enough time to provide the complainant with meaningful updates. By reflecting on how the complainant felt, they better understood the impact of not doing this and stated they would ensure they provided meaningful updates to the complainant and others going forward. The OIC agreed some steps with their supervisor to ensure better time management, including blocking out time in their diary and delegating tasks where necessary. The supervisor made a record of the reflective practice discussion and actions.

The complaint handler provided the complainant with an apology offered by the OIC and assurances that their reports were being properly investigated in the outcome letter. They were also given details of the actions taken so far. In the explanation, they were provided with information about the reflective practice discussion, including what the OIC had learnt about providing meaningful updates, together with an assurance that they would ensure they provided appropriate updates to the complainant from that point on.

The decision to handle the complaint through reflective practice was reasonable and proportionate. It allowed the officer to reflect on, and learn from, the impact of not providing meaningful updates and enabled the complainant to understand what actions were taken as a result of their complaint.

Further guidance about reflective practice is available on the [College of Policing website](#).

Local templates for reflective practice can be accessed on forces' local systems.



CASE STUDY SIX

Teenager complains about officer's manner

A complaint made by a teenage boy about a local police officer stated that the officer had attended the boy's local youth centre and while there, was rude and patronising. The complainant alleged that the officer had a condescending manner and said "you boys are always causing a nuisance and are a strain on this community" and "you should do something useful". The boy stated that there had been no complaints about their behaviour but with comments like this, it was no wonder he and his friends avoid the police. He wanted the complaint to be recorded and for the officer to understand how their attitude and comments made him and his friends feel.

The complaint was recorded and a decision was made that it could be handled otherwise than by investigation. This was on the basis that the behaviour complained about wasn't serious enough to warrant a written warning or formal performance procedures (as the supervisor had confirmed it was an isolated incident) but did require further action to address it. The complaint handler passed the complaint to the officer's supervisor. The supervisor spoke to the officer and asked them to respond to the young person's concerns. The officer said they had made the comments, but didn't think they were rude and didn't understand why the young person was upset by them. They said that a group of teenagers at the youth centre were 'always up to no good', which had recently started to frustrate them. The supervisor considered that, as the officer's behaviour fell short of reasonable expectations of how police officers should interact with the public, reflective practice would be an appropriate way to handle the complaint.

The supervisor explained to the officer why they considered that reflective practice was appropriate and what the benefits were to the officer and the complainant. The officer was invited to reflect on how their comments to the complainant and others present may have affected their views on police contact, what they could learn from the complainant's views on the comments made, and how they could deal with the situation differently in the future. In doing so, the officer better understood why the complainant and his friends were upset by the comments and how the matter could have negatively impacted on their perception of the police. The officer agreed that going forward, they would be mindful of how their comments might impact on different groups and affect their perception of the police, and they would try to remain calm and professional. The officer also agreed to discuss any frustrations about work with their supervisor more regularly so they wouldn't affect how they interacted with the public. The supervisor made a record of the reflective practice discussion and actions.

The complaint handler provided the complainant with an apology on behalf of the police force and an explanation in the outcome letter. In the explanation, they were provided with information about the reflective practice discussion, including what the officer had learnt as a result of the complaint.

The decision to handle the complaint through reflective practice was reasonable. It allowed the officer to acknowledge, reflect, and learn from the impact of their behaviour, and enabled the complainant to understand what actions were taken as a result of their complaint.



CASE STUDY FOUR

Man unhappy about police seizure of his vehicle

A man complained about the seizure of his vehicle when it was found to be uninsured. He said that the officer refused to wait for him to insure his vehicle and so he refused to provide his car keys. He alleged that the officer was rude by raising his voice and threatening to arrest him for obstructing him in the execution of his duty. He stated that if the officer had spoken to him in a more reasonable manner, the situation would not have occurred. He requested for his complaint to be recorded.

The complaint was recorded. As part of the handling, the complaint handler offered to show the complainant the body worn camera footage of the incident, but the complainant refused. In the outcome letter, the complaint handler provided a detailed explanation about the relevant legislation and reasons why his vehicle was seized. The letter contained the officer's response to the complaint – he had not intended to come across as aggressive, but he had been trying to explain the reasons for the seizure and this had been difficult because the complainant had talked over him repeatedly. The officer confirmed that he had told the complainant that if he refused to provide his keys he would have to arrest him, but he did not consider this to be threatening.



CASE STUDY FIVE

Complaint after officer failed to inform someone they were being recorded

A man complained that an officer had failed to inform him that they were recording him on body worn video. He said that this breached privacy laws and he was unhappy that the footage would be kept by police. He wanted the complaint was recorded. The complaint handler spoke to the officer who said that they had forgotten to inform the man about the video recording. The complaint handler contacted the complainant and explained why the footage was recorded. They apologised that he hadn't been informed of this, and explained that it was the force's policy to do so. When the complaint handler checked the officer's details and spoke to their supervisor, it was noted that similar matters had previously been raised, and that the officer had been through the reflective practice review process (RPRP) very recently. As a result, it was decided that a referral to stage one unsatisfactory performance procedures (UPP)⁴ was appropriate.

⁴ Unsatisfactory performance procedures (UPP) deals with inability or failure to perform to a satisfactory level, but without breaching the Standards of Professional Behaviour.



CASE STUDY SEVEN

Force shares learning after issue identified during complaint handling

A woman, acting on behalf of her young vulnerable daughter, made a complaint about the handling of her daughter's case. She stated that after the officer in charge (OIC) retired, she was not kept sufficiently updated about the investigation. She complained that this meant she could not complete a victim personal statement on behalf of her daughter. After initial contact from the complaint handler, the woman requested for her complaint to be recorded.

The complaint was recorded. A meeting with the complainant, her daughter and her daughter's support worker was arranged to discuss the outcome of the complaint. An apology about the lack of regular investigation updates was provided. The complaint handler explained that the new OIC had been spoken to. The OIC explained that they had provided the woman with an update when they took over the case. However, they acknowledged that it was their responsibility to provide regular and meaningful updates and they had not done this. The complaint handler explained that the OIC's performance fell short of expected standards and that they had participated in a Reflective Practice process. The complaint handler explained what the OIC had learnt from the matter, as a result of the complaint.

During the handling of this complaint, it was identified that because of a miscommunication between officers and the force's safeguarding unit, there was a delay in sharing information to support a referral made to social services. As a result of this, the complaint handler notified the force lead for safeguarding and requested that the whole force be reminded about the importance of clear and succinct communication when sharing information across departments.



CASE STUDY EIGHT

Complaint addressed by mediation

A man complained about an officer who had attended his address following his burglary report. He felt that the officer spoke to him as if he was a criminal and not a victim in need of police assistance. He said the officer was abrupt, disinterested and patronising and had implied that it was his fault he was burgled because he did not have an alarm. He stated that he lost trust in the police and wanted the officer to understand how he had made him feel. He wanted his complaint to be recorded.

The complaint was recorded. The complaint handler spoke to the officer, who explained that it had not been his intention to make the man feel like this – he had just been trying to give the complainant security advice. He explained that there were several family members at the address while he was there and they were talking over each other, making it difficult to talk to the complainant. The complaint handler did not consider the officer's behaviour amounted to PRI. It appeared that he had attempted to communicate appropriately to the complainant. However, because other family members spoke over the officer, his attempts appeared to have been misinterpreted by the complainant. The complaint handler felt that this might be a situation in which informal mediation could be effective in handling the complaint and could benefit both parties. Both parties agreed, and a meeting was arranged with the complaint handler as facilitator. The meeting allowed the complainant to explain how the conversation about the alarm had made him feel and the officer was able to express his regret that this is how he had come across. He explained that he had been trying to offer him advice and made clear that he did not think it was the complainant's fault he had been burgled.

The mediation meeting allowed the complainant to explain directly to the officer how he felt. It also allowed the officer to respond, clarifying what he had said and what his intentions were.

CASE STUDY NINE

Complaint that police failed to deal with safeguarding concerns

A man made a complaint that police had failed to take action when he had reported concerns about his daughter being neglected. Police attended his ex-wife's address following his report. They found no evidence of neglect and no immediate concerns that the child was at risk. However, the officers were mindful that the mother was struggling with her daughter's complex disability needs. They felt that she may benefit from support from social services. Police made a referral to social services, who put in place a "child in need" plan to help support the whole family. The man believed that his daughter was still being neglected.

The complaint handler reviewed the information available and identified that the man had already made multiple similar complaints against both police and social services. The police had met him to discuss his concerns and explain the actions they had taken, and why. The complaint handler contacted the man to discuss his recent complaint and concerns that his daughter was still being neglected. The man stated that he was concerned that his daughter's emotional needs were not being met by her mother. He felt that the police were not helping him and social services were not listening to him.

The complaint handler completed enquiries and, with the complainant's agreement, arranged a meeting with social services and the complainant. The meeting helped to identify that the man's concerns about his daughter being neglected were partly due to him feeling excluded from the "child in need" plan and not knowing what was going on. Social services explained that this was not their intention at all, but that they were unable to disclose certain information to him due to data protection and confidentiality rules. They provided him with some further information about the plan and described ways in which he could be more involved with supporting his daughter. They also reassured him that they would update him regularly about the progress of the plan, where possible. Both the police and social services provided the man with detailed explanations about their roles in the protection of children. This improved his understanding of their remits and who to contact with any concerns.

Taking no further action

There may be limited occasions when complaints are recorded, but taking any further action is unnecessary. This could be because it is not possible or reasonable and proportionate to progress the matter further. The complainant must be notified of this decision along with a detailed rationale and information about their right of review.

Taking no further action is a last resort and should only be relied upon where nothing further should or could happen with the complaint. If there are lines of enquiry that can be followed, the complaint handler

should explore these and make a service level determination where possible. If some action has been taken and can be used as the basis for a response, the complaint should not be considered as a 'no further action' case. For example, if a person complains that police did not attend reports of noisy neighbours and an incident log is checked which confirms police did attend, the complaint handler has taken action to address the complaint. The complainant can be provided with an explanation and a service level determination can be made. More information on taking no

further action on a complaint can be found in chapter 12 of our [Statutory Guidance](#).

Is it more appropriate for the complaint to be better handled by another process?

It may be clear from the initial information gathered that a complaint has been made solely because the complainant is dissatisfied with the outcome of another process rather than because of something that happened as part of that process. In this case, if the complainant requests that the complaint is recorded, it may be appropriate to take no further action. Instead, the person could be signposted to the correct process - for example:

the right of review against their original complaint

- > appealing their conviction
- > the right of review against the decision not to charge
- > the Information Commissioner's Office (ICO) if they are unhappy with the response to a freedom of information
- > (FOI) request

The complaint handler must satisfy themselves that no more can be done to reasonably and proportionately handle the complaint. If the complainant raises issues with the behaviour of the person(s) who dealt with the original issue, or with the policies that govern how the issue was handled, further action may be necessary to address these.

CASE STUDY TEN

Outcome of a complaint investigation leaves complainant dissatisfied

A man had previously made complaints about the police investigation into his mother's death. He then complained about the outcome of those complaints. He said he would not stop fighting regarding his mother's death and had recently met with the force in the hope they would re-open the case. In his complaint, the man stated that the investigating officer in the force PSD who dealt with his original complaints was rude and failed to keep him updated regularly.

The complainant's concerns about his previous complaints do not require further action because they have been addressed already. The man should be informed about his right to seek a review to deal with his concerns. The complainant's allegations that the investigating officer was rude and failed to keep him updated require further handling because this is a separate allegation not dealt with as part of his previous complaints.



CASE STUDY ELEVEN

Complaint seeks to overturn conviction

A man complained that he was wrongly convicted of armed robbery and that this was the police's fault.

The complaint handler contacted the man to discuss his complaint and explore why he felt the decision to convict him was because of the police's actions/omissions. The man stated that he was found guilty of a crime he didn't commit, and the police should have known he was innocent. He stated his conviction was unlawful and he wanted it to be overturned. He wanted his complaint to be recorded.

The complaint was recorded. The complaint handler wrote to the complainant and explained that as his complaint related solely to his conviction and not to the behaviour of the police, they would not be taking any further action. They provided information about how the man could appeal against his conviction.

The decision to take no further action on this complaint was reasonable and proportionate. The complaint centres on the man's conviction. Therefore, it should be handled by the process set up for people to appeal against convictions. If the complaint provided additional specific information about the police's behaviour during their investigation of the offence, further action may have been necessary.

CASE STUDY TWELVE

Woman dissatisfied with the decision not to charge her neighbour

A woman complained about the police's decision not to charge her neighbour with harassment. She stated that she had a longstanding dispute with her neighbour about shared access to their property and recently, they had been harassing her and making her life hell. She had reported this to police. However, she believed that officers were biased towards her neighbour, did not speak to witnesses, and had failed to look at CCTV. She complained that the officers were rude and didn't care. She wanted the police's decision not to charge her neighbour overturned.

The complaint was recorded. The complaint handler contacted the woman to discuss her complaint. They described the Victims' Right to Review (VRR) Scheme and explained that this would be the appropriate way to request a review of the police's decision not to prosecute her neighbour. They advised that they would not review this decision as part of the complaint handling, but that they would take further action in response to her concerns about the officers' behaviour and the independence of the investigation.

Taking no further action in relation to the woman's complaint about the charging decision, and instead signposting her to the VRR process, was appropriate. Had the charging decision been made by the Crown Prosecution Service (CPS) rather than the police, it would have been appropriate to signpost the complainant to the CPS. The complaint handler appropriately identified that the woman's concerns about the behaviour of the officers who dealt with the original report required further action.

Situations where it is not possible to take any further action

There may be occasions when a complaint needs to be recorded because it meets the definition of a complaint, or because the complainant requests that it be recorded despite the fact that it is vague or obscure. The complaint might not include any dates, locations or specific details about the matter complained about. This makes it hard to know what further action is needed to address it.

This situation should be dealt with through clear communication with the complainant at the initial handling stage. However, if the complainant refuses or is unable to engage and provide the information needed to be able to address their complaint, and the force is unable to find any details of the incident complained about via its own systems, it may then not be possible to take any further action. The complaint handler must explain to

the complainant why no further action can be taken, and that they have a right of review.

Some complaints might relate to matters that happened a long time ago. Just because time has lapsed since the incident, this does not necessarily mean it is reasonable to take no further action.

The principles of reasonable and proportionate handling are set out in Chapter 3 of our Statutory Guidance. These state that the seriousness of a matter and potential for learning should be weighed against the use of policing resources, so reasonable attempts should be made to try and address the complainant's concerns, wherever possible. Even if a relatively minor matter happened a long time ago, there may still be enough information to respond to the complainant's concerns in a proportionate way. However, if the time that has lapsed means that no information is available to respond to the

complaint, this should be explained to the complainant. If the complaint is more serious, it may not be reasonable and proportionate to take no further action. In this situation, it is likely that more resources will be allocated, as this is proportionate in the circumstances.

There may be times when a complainant expressly states that they want no further

engagement in any form and that they just want their complaint to be addressed. A lack of engagement should not be seen as an automatic reason to take no further action – if there is enough information in the original complaint, it is often entirely possible to address the complaint without further contact with the complainant.

CASE STUDY THIRTEEN

Advocate complains about police handling of a sexual assault investigation

A woman's advocate made a complaint about the police handling of the woman's sexual assault allegations made in 1999. The complaint alleged that the allegations were not treated seriously by the sexual offence unit, crucial evidence was not considered, and the woman was not provided with an appropriate adult during two interviews with police officers.

The complaint was recorded. The force contacted the advocate to discuss the complaint. The advocate then provided some letters the woman had received from the time of the sexual assault investigation. The complaint handler decided that due to the time that had lapsed, there would be difficulties in obtaining evidence and, therefore, they would not take any further action. The advocate was notified of this and the right of review.

The decision to take no further action in relation to this complaint was not reasonable and proportionate. When considering how a matter should be handled, the matter's seriousness and its potential for learning should be weighed against the efficient use of policing resources. This complaint contained serious concerns about the handling of a sexual assault investigation. Reasonable attempts should have been made to address the concerns using any information that was still available. The complaint handler should not have used the time lapse or lack of evidence as a reason not to take further action.



CASE STUDY FOURTEEN

Man complains about his treatment in custody

A man complained that when he was in custody in 2002, his request for a cooked breakfast was denied and he was only offered a cereal bar. He explained that he hadn't complained in the past because he believed the police were corrupt and nothing would be done about it. He now believed that cases like his were dealt with more seriously and he wanted his complaint to be recorded and addressed.

The complaint was recorded. The complaint handler was aware that custody records did not go back to 2002. They wrote to the man stating that they could take no further action in relation to his complaint because the custody records or any other evidence no longer existed and they would be unable to examine his concerns. They explained that he had a right of review.

The decision to take no further action was appropriate in this case. The complaint handler knew that no information existed to assist in responding to the man's complaint. When balancing the seriousness of the matter with the proportionality of handling the complaint, it is not reasonable to use resources to find an answer when the complaint handler knows that the information required no longer exists.



CASE STUDY FIFTEEN

Lack of details means force cannot take action in response to complaint

A man complained that plain-clothed officers had threatened to "plant a gun on him".

In response, the man was asked to provide further information, including dates and locations, to try and clarify his complaint. System checks showed that the man was not known to police. The man replied stating that the police were persecuting him, had consistently threatened to plant a gun on him, and had hacked his computer to cause him anguish. He stated that the matter needed to be investigated immediately to prevent further harm. No further information was provided. The force recorded the complaint and advised him that because they were unable to identify any incidents or establish the circumstances of his complaint, this meant they were unable to take any further action on his complaint. He was informed of his right of review and advised to contact 999 if he felt he was in danger.

This decision was reasonable and proportionate. The force checked its systems and couldn't find any information about the alleged incident. They took some steps to attempt to address the complaint and it was not possible to take any further action.



CASE STUDY SIXTEEN

More could have been done to address dissatisfaction after report of stalking

A man reported that he was being stalked. He then complained that the police community support officer (PCSO) and police officer who came to visit him were hostile, dismissive and seemed disinterested. He said that he received no further contact about the investigation of his report of stalking. He also complained that the officers told him that he would be contacted about safeguarding measures, but this had not happened and he was concerned for his safety.

The complaint was recorded. The complaint handler attempted to arrange a meeting to discuss the man's complaint and explore why he felt the officers were dismissive and disinterested. However, the man did not want to meet and just wanted the matter to be addressed without further contact. The complaint handler reviewed the investigation records. Enquiries were ongoing, and officers were due to attend the man's home address the following week to obtain a further statement. The investigating officer had added a note to the file stating that they had attempted to call the man twice to update him, but had been unable to contact him and so had sent a letter. The complaint handler sent the complainant this information in an outcome letter that also said that because they had been unable to obtain any further information from the complainant about the officers' alleged behaviour during their visit, the officers had not been asked about that aspect of his complaint. There was no mention about the safeguarding measures.

Although some attempt was made to address the man's complaint – for example, the investigation records were viewed – more could have been done to address the man's concerns. The complaint included sufficient information about the officers' alleged behaviour for them to have been asked about their recollection of the visit. It would also have been reasonable to ask the investigating officer to check about the safeguarding measures to ensure that this aspect was being dealt with.

Situations where a complaint has been, or is being, addressed

If a complaint has already been addressed, or is in the process of being addressed, and is substantially a repeat of an earlier complaint, it may be that no further action is required. However, it is important to make sure that the complaint really is substantially the same matter, and that there is nothing new to look at.



CASE STUDY SEVENTEEN

Complaint repeats matters that had been addressed

A man complained that during the police investigation into his allegation of theft which had concluded, the investigating officer was dismissive and patronising. He complained about his failure to return telephone calls and said he did not keep him updated about the progress of the investigation.

The complaint was recorded and the complaint handler checked the force computer system and saw that the man had made a similar complaint three months earlier. The complaint had been addressed and an apology given for not returning a phone call. The man had requested a review of the outcome, which found that the outcome was reasonable and proportionate. The complaint handler contacted the complainant to clarify if the issues now complained about had occurred after his original complaint or related to the same incidents previously complained about. The complainant, in writing, confirmed they related to the same incidents he had previously complained about. Therefore, the complaint handler explained to the complainant that his complaint had been addressed and that it would not be looked at again.

The decision to take no further action was reasonable and proportionate. The new complaint repeated what had already been addressed and there was nothing new that warranted further action.



CASE STUDY EIGHTEEN

Additional complaint not addressed

A man complained that police had no legal power to arrest him for being drunk and disorderly, and that charging him was persecuting him. He alleged that the police got his solicitor to cover up for them, and that because of the police's influence over all solicitors, he was unable to get any proper legal representation. He also added that during the week before his complaint, a police car repeatedly drove past his house and he felt harassed and unsafe.

The complaint was recorded. The man had previously made the complaint that his arrest was unlawful and the police had charged him maliciously. In his first complaint, he also alleged that the police were corrupt and had asked his solicitor to cover up for them. He had received the answer to his first complaint, which made him aware of his right of review. The complaint handler wrote to the man to explain that they would not take any further action on his complaint, and signposted him to the review process.

Although most aspects of the second complaint had been addressed previously, the information about the police car driving past the man's house was not included in his original complaint. This additional aspect should have been addressed.



CASE STUDY NINETEEN

Repeat complaint about search of home

A woman complained about a police search at her home. She alleged that the search was unlawful, that officers pinned her to the ground when there was no need, and an officer called her 'crazy'.

The complaint was recorded. When the complaint handler checked the force systems, they found that the woman had already made a complaint about the search of her home on the date this took place. She had complained that the search was not necessary and therefore unlawful, that officers forcibly took her to the ground and the same officer called her 'mental'. Although worded slightly differently, the substance of the complaint was the same. The original matter had been looked at and there had been some learning for the officers who had attended – they had not conducted pre-search checks on the woman and the property. There was a marker on the system that the woman was vulnerable and had acted violently when she felt threatened. Anyone attending her home should provide her with ongoing reassurance. Had the officers known about this, it might have meant that the search did not escalate to the point where the officers had to restrain her for their safety.

The complaint was substantially the same as the earlier complaint, which had been addressed fully. No further action was required.



CASE STUDY TWENTY

Woman complains about the delay in locating her watch

A woman complained that when she attended the police station to collect her belongings, a staff member searched the property system but struggled for 30 minutes to find her watch. She said this caused her unnecessary anguish and wanted an explanation for the delay. The complaint was initially handled outside of Schedule 3. However, the woman was not satisfied with this and asked for her complaint to be recorded and addressed fully.

The complaint handler recorded the complaint and reviewed the information. They found that the woman had been provided with a brief explanation, but that this did not reflect the detail of what the staff member had said when asked about the search. The explanation did not state that the staff member had apologised for the error, and explained that the watch had been logged on the system properly and correctly stored. However, they were new to the role and had struggled to find it. They said that they would adopt the advice given to them about the most effective way to search the property system. The complaint handler decided that further action was necessary and sent a thorough explanation to the woman. This included the staff member's response and apology. They also informed the woman that the staff member had received advice to ensure that the same issue would not happen again.

The complaint handler's decision to take further action was reasonable and proportionate. The explanation provided initially did not fully address the complaint, which led to the woman being dissatisfied. The complaint handler reviewed the original answer provided by the force and identified that a more detailed explanation could have been given.

Complaints about off-duty behaviour

Police officers and staff have a right to a private life. Therefore, when assessing whether action should be taken in relation to complaints recorded about off-duty behaviour, the complaint handler should consider the following factors:

- > whether what allegedly happened has any relevance to the person's role in the police
- > whether what allegedly happened would discredit the police service
- > whether a particular decision, action or omission might result in members of the public losing trust and confidence in the policing profession

If there is an indication that the allegation involves a criminal offence, or an indication that the person behaved in a manner that would justify disciplinary proceedings, this meets the threshold for the allegation to be investigated. If the complaint does not include allegations of this nature, it should be handled in a reasonable and proportionate way. The most appropriate way to handle the matter will depend on the allegation. It may be appropriate to take no further action if what has been alleged would not undermine public confidence or discredit the police service. If the complaint handler decides that no further action is required, this should be explained to the complainant, along with their right of review.

CASE STUDY TWENTY ONE

Complaint about the off-duty behaviour of their neighbour

A couple had an ongoing dispute with their next-door neighbour, a serving police officer, about parking spaces at their block of flats. They made a complaint to the force PSD that the officer routinely allowed his visitors to use one of their parking spaces. They alleged that when they confronted him about this, he said: "I can do what the hell I want". Attempts were made to handle the complaint outside of Schedule 3, but the complainants said that they wanted the matter recorded.

The complaint handler recorded the complaint and wrote to the complainants stating that no further action would be taken because their complaint had no bearing on the officer's police role. They explained that this was a civil matter between them and their neighbour and should be raised with their landlord. The couple was told that they had a right of review.

The complaint handler's decision to take no further action beyond explaining the alternative avenues open to the complainants was reasonable and proportionate.

However, if the officer had said: "I am a police officer and I can do what the hell I want", this would require further action. Making this statement puts him on duty and may indicate that he is misusing his position. It may discredit the police service or undermine public confidence in policing.

CASE STUDY TWENTY TWO

Man raises complaint about his step-daughter's off-duty behaviour

A man's wife recently died and he made a complaint that his step-daughter, a member of police staff, was being extremely difficult and hostile about the handling of her mother's assets and will. He stated that she had always disliked him and had made his life difficult by causing arguments between him and her mother while she was alive. He stated that although, as far as he was aware, she had not misused her police status against him, he felt that a person's behaviour in their private life is often reflected in their working life and wanted his complaint to be recorded.

The complaint was recorded. The complaint handler wrote to the man and explained that his concerns related to a private civil matter. The issues he had raised had no bearing on her ability to do her job and, if true, would not discredit the police service or undermine public confidence in policing. It was decided no further action would be taken. The letter also explained that the man had a right of review.

The force's decision was appropriate. The off-duty behaviour raised in the complaint did not relate to the woman's role in the police, and being argumentative and difficult in her private life would not discredit the police service or undermine public confidence.

CASE STUDY TWENTY THREE

Off-duty behaviour of a local officer has potential to affect important work-related relationship

A member of door staff at a pub made a complaint about the off-duty behaviour of a police officer. He stated that he had to escort the officer out of a pub because he was extremely drunk. He complained that the officer started shouting at him and repeatedly told him to 'fuck off'. The complaint stated that the man was a local officer who carried out regular patrols of the area and that he should know better.

The relationship between local police and door staff is an important one to maintain. By allegedly acting in this way, although off-duty, the officer has discredited the police in the eyes of that community. This complaint should be looked into and addressed to restore confidence in local policing.

What should happen if it is difficult to lend any credence to a complaint?

Complaints that are difficult to lend any credence to can usually be addressed by providing the complainant with an explanation about the matter raised. This should set out why taking no further action is appropriate.

The explanation should be written sensitively and not be dismissive. There may be circumstances where some enquiries are needed before an explanation is provided. It is important to consider the complaint itself, rather than the alleged incident giving rise to the complaint. There might be complaints

where the original incident reported to police is difficult to lend credence to, but a

subsequent complain that the police failed to investigate is not.

CASE STUDY TWENTY FOUR

Woman concerned police were using lasers to control her

A woman complained that the police were using lasers to control her and make her have horrible thoughts. She wanted her complaint to be recorded.

The force's PSD recorded the complaint and wrote to the woman acknowledging her concerns and explaining that the police do not use lasers. They reassured her that what she feared was not happening to her. They advised that they would take no further action on her complaint and explained that she had a right of review.

The woman had made similar complaints in the past and attempts had been made to speak to her at her home. However, she refused to engage. The force had made both a safeguarding referral and a referral to the mental health team. As a result of this, the Early Intervention Team arranged for the woman to have a mental health assessment.

The PSD provided an appropriate written explanation and reassurances about her complaint. The force had also made appropriate referrals to services that could provide the woman with support.

CASE STUDY TWENTY FIVE

Complaint that police spread malicious information

A man complained that officers had publicly announced that he was a sex offender, using the internet to maliciously spread information about him so that he would be targeted by members of public. The complainant asked that the matter be dealt with as a formal complaint.

The complaint was recorded. The complaint handler wrote to the man and said that his complaint had no credence and that no further action would be taken. The letter explained that he had a right of review against this decision.

The complaint handler could have completed system checks to find out whether the man was known to police, as well as internet searches. An explanation could then have been provided to the complainant about the actions taken to address his concerns and reassure him that the malicious information he was concerned about did not exist, and therefore no further action would be taken.

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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.



030 0020 0096



enquiries@policeconduct.gov.uk



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