

Frequently Asked Questions (FAQs)

Post-decision questions about Reviews following the investigation of complaints

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Glossary | Key terms we might use

This document is a continuation of the pre-decision FAQs. This FAQs document provides information about what happens **after** a decision about your application for review is made. To get information on what happens **before** a decision is made, please refer to our pre-decision FAQs.

3 | After the review

3.1

What are the possible outcomes of a review?

All the evidence that you and the **police** supplied to the Independent Office for Police Conduct (IOPC) was looked at and we have made our decision.

The outcome of your application for review can either be 'upheld' or 'not upheld' (see the glossary below for a definition of these terms).

If your complaint was **not** handled by the police force you complained against, please see the glossary on the 'appropriate authority' at the end of this document.

3.2

What happens if my application for review is upheld?

If we upheld your application for review, we may have told the local police force that:

- they should re-investigate your complaint or
- we conclude that a person has a **case to answer** in respect of *misconduct* or *gross misconduct* (see the glossary below for a definition of these terms) and recommend disciplinary action or proceedings and/or
- we have made **recommendations** to the *appropriate authority* (see the glossary below for a definition of this term). For example, a *Paragraph 28ZA remedy*, a referral to the *Reflective Practice Review Process* or *Unsatisfactory Performance Procedures* (see the glossary below for a definition of these terms).

If we have made recommendations to the appropriate authority, then they must consider them and respond to us.

A recommendation is an action that the IOPC proposes that the appropriate authority should carry out as a result of the review. Recommendations do not have to be followed.

We do not make recommendations in every case, even when we have upheld an application for review. We look at this on a case-by-case basis.

3.3

What happens next if the IOPC makes a recommendation to an appropriate authority or when they are required to re-investigate your complaints?

The police should contact you directly to notify you of the outcome of any recommendations we made. We will keep in touch with the appropriate authority to monitor its response.

Where a re-investigation has been undertaken by the police, the investigating officer should provide you with an update every 28 days. If you have not heard from them **within 28 days**, please contact them directly. At the conclusion of the re-investigation, you will be offered a right of review to the *Relevant Review Body* (see the glossary below for a definition of this term).

3.4

Will the IOPC investigate my complaints?

No.

Where we are the *relevant review body* (see the glossary below for a definition of this term), we will not investigate your complaints, but we will consider whether the outcome you were given following the investigation of your complaint, was reasonable and proportionate.

There are instances when the IOPC investigates the original incident. We only investigate the most serious and sensitive incidents and allegations involving the police. For more information, please visit: www.policeconduct.gov.uk/our-work/investigations

3.5

Can I submit extra information *following* the decision?

No.

You **cannot** provide extra information once the IOPC decision has been made. The time when you submitted your application for review was your opportunity to provide us with all the necessary information for consideration.

3.6

The decision refers to '*reasonable and proportionate*'. What does this mean?

In deciding whether the outcome was reasonable and proportionate, we will look at what actions the investigating officer took to address your complaint, whether the investigating officer took into account any relevant legislation and guidance, whether the investigating officer engaged sufficiently with you in order to fully understand the complaint, whether the findings and determinations logically followed from the information or evidence obtained and whether the investigating officer identified any potential for learning.

3.7

Can the IOPC make determinations on complaints about lawfulness?

No.

Your complaint could be about the lawfulness of the conduct of a person serving with the police (for example, it may be alleged that an arrest or the search of your home was unlawful). We cannot reach a determination in the outcome as to whether there has been criminal behaviour or civil unlawfulness. Reaching determinations on these issues is for the criminal and civil courts and/or those conducting disciplinary proceedings. We may choose to express an 'opinion' in some circumstances on the issue of lawfulness where appropriate.

3.8

What happens if I don't agree with the IOPC's decision?

All decisions the IOPC make are final.

There is **no right to appeal** against our decision following a review. If you have any questions or need more information about our decision, please contact the casework manager who sent you the decision letter so they can explain their reasoning and answer any questions that you have.

Our decisions can only be overturned by the courts through the judicial review process. Please note, there is a 3 month time limitation if you wish to judicially review an IOPC decision. You may wish to seek your own independent legal advice if you intend to pursue this course of action.

3.9

What happens if I don't agree with the local policing body's decision on my application for review?

If you have already submitted an application for review to the *local policing body* (see the glossary below for a definition of this term) as the correct Relevant Review Body, then you cannot submit another application for review to the IOPC about a decision already made.

If you have any questions or need more information about the local policing body's decision, please contact the person who considered your complaints so they can explain their reasoning and answer any questions that you have. Their details will be in the decision letter you received.

3.10

How do I complain about the conduct of the investigating officer who considered my complaints?

The IOPC cannot look at your complaint about the investigating officer's conduct or the service you received from them. If you wish to lodge a complaint against this person, you will need to contact the relevant Professional Standards Department of the police service. Their details should be in the cover letter you received or you may access the IOPC website for a complaint form.

3.11

Does the IOPC deal with compensation claims?

No.

The IOPC's remit does not cover claims for compensation from the police. If you want to pursue any financial claims against the police, you should contact the police force

concerned. You can also contact your local Citizens Advice Bureau for more information or seek independent legal advice.

3.12

Can the IOPC make the police apologise to me?

No.

The IOPC can recommend that an apology is offered, but we cannot direct the police to provide this to you.

3.13

What happens if I'm not happy with the service I received from the IOPC?

If you are unhappy with the service you received, you can make a complaint to the IOPC Complaints & Feedback Team. A member of the team will assess your complaint and look at the service you received from our staff. They will not address any concerns or queries about decisions made by the IOPC. You can contact the IOPC Complaints & Feedback Team by sending an email to: Feedback@policeconduct.gov.uk

Glossary

Appropriate Authority (AA)

An AA is the authority responsible for considering complaints.

In most cases, the AA will be the chief officer of the police force about which dissatisfaction is expressed or, where a complaint relates to the conduct of an individual, the chief officer who has direction and control over that person. For most police forces, the chief officer is the Chief Constable. For the Metropolitan Police Service and City of London Police it is the Commissioner. In some cases, the AA could be the Local Policing Body. If a complaint relates to the conduct of a chief officer or acting chief officer, the AA is the Local Policing Body with responsibility for that police force area.

Case to Answer

“Case to answer” means that the investigating officer or the casework manager is of the opinion that there is sufficient evidence that there may have been a breach of the *Standards of Professional Behaviour* (see below for a definition of this term).

In deciding that a person serving with the police has a case to answer for *misconduct*, the investigating officer or the casework manager must then decide:

- whether the alleged breach of the Standards of Professional Behaviour is so serious as to justify disciplinary action, and
- whether misconduct proceedings should be brought against the officer concerned and, if so, what form the misconduct proceedings should take.

Where the investigating officer or the casework manager has concluded there is a case to answer for *gross misconduct*, this means that there may be a breach of the Standards of Professional Behaviour which was so serious that dismissal could be justified.

Lines of Enquiry

Lines of enquiry refers to areas for exploration and examination for the purpose of gathering evidence or information in an investigation. If any were identified as part of the re-investigation of your complaints, this would have been detailed by the casework manager in their decision letter to you.

Local Policing Body (LPB)

For most areas the LPB is the Police and Crime Commissioner.

LPBs are responsible for carrying out reviews where they are the Relevant Review Body. LPBs may also have chosen to take on responsibility for certain additional functions in the initial handling of complaints and the provision of information to complainants that would otherwise be carried out by the chief officer as the AA.

Not Upheld

If your application for review is not upheld, it means we have agreed that the outcome of your complaint was reasonable and proportionate. If you are unhappy with the decision relating to your application for review, please contact the casework manager who assessed your case and provided you with the final decision letter. Please note, there is no further right of appeal against that decision or option to change the outcome as it is final (please refer to point 3.6 above).

Paragraph 28ZA remedy

This is an action that the AA can and should take as part of the outcome of handling of the complaint to remedy your dissatisfaction. They can provide a remedy where something has gone wrong for example, when a failing has occurred, or the service has not been adequate. An effective and timely remedy demonstrates accountability and helps rebuild trust in the police and secures confidence in the complaints system. It can take the form of an apology, returning seized property, reviewing information on police databases or records, providing mediation, holding a service improvement meeting (this list is not exhaustive).

Recommendations

Recommendations may be issued by the IOPC to an AA when an application for review is upheld. A recommendation is an action the IOPC advises the AA to carry out as a result of the review. The AA must consider the recommendation from the IOPC and respond to the IOPC but does not necessarily have to implement the recommendation. It is expected that recommendations will be complied with unless there is a good reason not to.

Reflective Practice Review Process (RPRP)

The Reflective Practice Review Process is not a disciplinary process or a disciplinary outcome. It is intended to provide an open environment to encourage all those involved in the process to reflect, learn and, where necessary, put things right and prevent any issues identified from re-occurring. It only applies to police officers, not police staff.

Relevant Review Body (RRB)

A RRB is the organisation that will deal with your application for review.

There is a right of review to the RRB following the AA's outcome of a recorded complaint whether this be by way of an investigation, or by other handling.

The right to apply for a review is to either the LPB or the IOPC.

The IOPC is the RRB for complaints where:

- i. The AA is a LPB
- ii. the complaint is about the conduct of a senior officer (an officer holding a rank above chief superintendent)
- iii. the AA is unable to satisfy itself, from the complaint alone, that the conduct complained of (if it were proved) would not justify the bringing of criminal or disciplinary proceedings or would not involve the infringement of a person's rights under Article 2 or 3 of the European Convention on Human Rights
- iv. the complaint has been, or must be, referred to the IOPC
- v. the IOPC is treating the complaint as having been referred (also known as the 'power of initiative', see paragraphs 9.36 – 9.39 of the IOPC Statutory Guidance)
- vi. the complaint arises from the same incident as a complaint falling within ii-v
- vii. any part of the complaint falls within ii-vi

The LPB is the RRB for any complaints that don't match the list of circumstances above.

Special Procedures

Where the investigation has been declared subject to "special procedures", it means that the investigating officer believed there was an indication that a criminal offence may have been committed or that the officer may have behaved in a manner that would justify the bringing of disciplinary proceedings. Not all investigated cases will be subject to "special procedures". The investigating officer will consider this on a case-to-case basis or when new evidence comes to light.

Standards of Professional Behaviour

There are ten standards in total and apply to all police officers and special constables. They include the standards relating to (1) Honesty and Integrity, (2) Authority, Respect and Courtesy, (3) Equality and Diversity, (4) Use of Force, (5) Orders and Instructions, (6) Duties and Responsibility, (7) Confidentiality, (8) Fitness for Duty, (9) Discreditable Conduct and (10) Challenging and Reporting Improper Conduct. The Standards of Professional Behaviour for police staff are similar.

Unsatisfactory Performance Procedures (UPP)

The purpose of UPP is to improve the performance of individuals and the overall performance of the force. It does not apply to senior officers, police staff or contracted staff. UPP is different from misconduct and gross misconduct. It concerns the officer or special constable's inability or failure to perform their role to a satisfactory level. Their

performance may be unsatisfactory but not breach the police Standards of Professional Behaviour.

Upheld

If we upheld your application for review, we agree that the outcome of your complaint was not reasonable and proportionate. We will state in your decision letter that it is necessary for the AA to either:

- re-investigate your complaints or
- consider our recommendation for disciplinary action or proceedings and/or
- consider our recommendation for a *Paragraph 28ZA remedy*, a referral to the *Reflective Practice Review Process* or *Unsatisfactory Performance Procedures* (see glossary above for a definition of these terms).

Note: This information is available in Welsh on our website: www.policconduct.gov.uk