



Review practitioner workshops – common questions

**A summary of the most common
questions asked about complaint and
review handling.**

May 2022

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Introduction

In Autumn 2021 the IOPC's Oversight team hosted review practitioner workshops on complaint and review handling. The questions included here reflect some of the most common types of questions that were asked during the workshops.

Initial responses were given when the questions were raised. But sharing the questions asked and discussed with all Local Policing Bodies (LPBs) and other policing stakeholders is an opportunity to encourage consistency and give insight on the issues raised by review peers.

The questions have been anonymised so they do not reflect any specific case, and some have been merged because the questions were similar in nature.

The replies reflect the initial conversations but some include additional context where it is beneficial to provide more information.

This information is correct as of May 2022.

Access and reasonable adjustments

1. Is there an expectation for translation services to be provided where a complainant's first language is not English?

There is an obligation under the Equality Act 2010 to make sure the actions of any public body are not directly or indirectly discriminatory, although there is no legal requirement to translate documents or provide an interpreter for other languages, except where that language is Welsh.

It is reasonable to expect both forces and LPBs to consider the use of translation services if the complainant has limited or no command of English and they ask to communicate in the language of their choice. Providing such services may help to eliminate direct or indirect discrimination, advance equality of opportunity and foster good relations.

Handling of a complaint could potentially be deemed not reasonable and proportionate if translation services should have been used and were not put in place. The complainant may not have been given the opportunity to express themselves fully as part of the initial contact with the force. There is also a risk of the complainant's concerns and feelings being lost. Further information on accessibility to the complaints system is referred to in [Focus issue 17 – Access to the police complaints system](#).

2. What responsibilities do we have to make adjustments when a complainant wishes to make a complaint but needs help? Does the responsibility depend on the seriousness of the complaint?

There is an obligation under the Equality Act 2010 to make sure our actions are not discriminatory. Our responsibilities under the Act are not decided or affected by the seriousness of the complaint. Everyone has a right to access the system.

It is essential we reflect the entitlements set out in the Ministry of Justice's Code of Practice for Victims of Crime and the aims of the Public Sector

Equality Duty (PSED). While the PSED is proactive, there is no requirement to ask every service user if they need a reasonable adjustment. It is on a case-by-case basis, using discretion to judge when it is appropriate to ask the question.

When deciding whether an adjustment is reasonable, we should consider:

- how effective the change will be in assisting disabled/neurodiverse people in general or relating to a particular service
- whether it can actually be done
- any costs involved
- if there is an alternative solution that will give the same outcome and be more cost effective
- organisation size and resources

Like the IOPC, both forces and LPBs should have a policy on reasonable adjustments to ensure legal obligations are met. [Focus issue 17](#) provides guidance around this.

Initial enquiries

3. When deciding who the relevant review body is, can the force take into account further information that becomes available as part of the complaint handling, or should it be based purely on the wording of the complaint alone?

The assessment must be based upon the complaint alone, and not on the apparent merit of the allegations or with hindsight, once the complaint has been dealt with. It is important no investigative actions or potential outcomes are taken and/or considered when deciding who the relevant review body is. Only enquiries made with the complainant to fully understand the complaint should be considered.

To evaluate the complaint, the appropriate authority should focus on what is being alleged and consider the conduct being alleged within the complaint, and not any label attached to it.

For example, in response to an allegation of perverting the course of justice where no further information has been provided, it would be reasonable for the complaint handler to contact the complainant and find out how the officer is alleged to have perverted the course of justice. If the complaint handler clarifies the allegation is not regarding an action to alter the course of justice but something else, such as an officer not responding to an email, the appropriate authority can take this further information into account when deciding who the relevant review body would be.

Repeat complainants

- 4. We often see cases where a complainant will repeatedly send in new allegations stemming from a matter previously recorded and addressed under Schedule 3 of the Police Reform Act 2002 and subject of a review. How should we deal with that? Is there an expectation complaint handlers should engage early with the complainant?**

If the complainant is making new allegations, they should be treated as such. Irrespective of who has made the complaint, how often or how many complaints have been made. Each complaint must be looked at in its own right and handled in a reasonable and proportionate manner.

The handling of each allegation very much depends on the circumstances of each case. For example, if a complainant raises a new allegation of corruption but does not explain in what capacity the officer is corrupt, even if it is linked to a previous complaint that has been dealt with, it would be reasonable for the complaint handler to make initial contact with the complainant. This would allow the complaint handler to obtain more information before deciding whether or not the complaint needs to be referred to the IOPC, and how the matter should be handled.

You may also wish to consider putting in place a contact strategy should the contact from one individual become unduly time consuming.

No further action (NFA)

5. When does providing a no further action rationale go beyond reasons for not looking into a complaint and become the outcome to a complaint?

As a reason for not looking into a complaint: the rationale for taking no further action should only be used when explaining why the complaint cannot be addressed. For example, it is the same complaint that was recorded and addressed previously and there are no new complaints; or it became clear after the complaint was recorded that the complaint is about a non-policing agency. In these circumstances you would expect the no further action decision letter to explain when and how the complaint was previously addressed or signpost the complainant to the relevant organisation.

As the outcome to a complaint: if the rationale addresses the incident or allegations and can explain whether the service received from the police was acceptable, then a decision whether the service level was acceptable or not should be provided. Further information on no further action decisions can be found in [Chapter 12 of the IOPC's Statutory Guidance](#) and [Focus issue 14](#).

Reasonable and proportionate handling

6. Should I uphold a review when there has been no communication between the complainant and the force, other than the complaint itself?

While we would expect the force to make contact with the complainant to seek their views on how their complaint should be handled, the key consideration

with any review is whether or not the *outcome* provided to the complainant is reasonable and proportionate.

If you consider lack of contact has impacted upon the handling and outcome of the complaint, this may be a reason to uphold the review. For example, the allegations within the complaint have not been understood by the complaint handler and this impacted the subsequent handling. Alternatively, if you consider lack of contact has not impacted the outcome provided to the complainant, you should not uphold the review on this basis. Instead, you may wish to raise this as an oversight issue with the force.

7. When handling a review, to what extent would you expect the complaint handler to deal with every point made in a lengthy complaint letter?

A complainant may provide a detailed letter of complaint with background information about why they are complaining. It is important for the complaint handler to make initial contact with the complainant to agree what will (and will not) be looked at and addressed, and to manage the expectations of the complainant. If the complaint handler has reasons for not pursuing elements of the complaint, you would expect these reasons to be made clear to the complainant. This should be as part of their contact with the complainant during the course of the complaint handling.

The outcome letter to the complainant should also outline what was agreed with the complainant and which elements of the complaint fall within the complaint handling. If, when conducting a review, it is not clear what the elements of complaint are or what has been agreed with the complainant, you are advised to contact the complaint handler to check what initial engagement there was and what evidence they have to support this. If elements of the complaint have not been addressed and there is no evidence to justify this, you should consider whether the missed allegations would impact on the outcome of the complaint being reasonable and proportionate. If they would impact on the outcome, the review should be upheld and the case returned for investigation or reinvestigation if it has already been subject of investigation.

Review outcomes

8. If I uphold a review and disagree with the decision made by the force, can the force change their records within Centurion to reflect this?

Yes. Centurion will record the original decision, but the IOPC would encourage the Centurion record to be updated with any review decision to ensure a complete record is retained. Refer to Centurion guidance or the system's owners/administrators for advice on how this should be done.

9. Sometimes it can seem disproportionate to uphold an 'other than by investigation' review, where further enquiries are necessary, and recommend the force conducts an investigation. In this situation can I recommend the complaint is handled other than by investigation again?

Where a local policing body is the relevant review body and finds the outcome is not reasonable and proportionate, you can only:

- recommend the appropriate authority refer it to the IOPC, if the complaint has not been previously referred
- recommend the appropriate authority investigate the complaint
- make a recommendation under paragraph 28ZA, Schedule 3, Police Reform Act 2002

It is a decision for the force to decide how extensive or proportionate the additional enquiries should be to complete the investigation.

10. To what extent can I make a recommendation to remedy the dissatisfaction of a complaint?

The benefits of the new legislation and being able to recommend a remedy under Paragraph 28ZA, Schedule 3, Police Reform Act 2002, is that it is flexible rather than prescriptive. It gives scope for appropriate, targeted and even novel remedies, apart from recommending compensation.

However, it is important any recommendations you wish to make are discussed with the force to make sure they are achievable. For example, there would be no benefit recommending the force consider the return of property if

that property is evidence in ongoing criminal proceedings. You could, however, recommend the force consider regularly reviewing whether the property still relates to criminal proceedings and return it as soon as practical.

In addition to several examples outlined in [Chapter 17 of the IOPC's Statutory Guidance](#), recommending a remedy could include the force considering a review of a process or policy, reviewing what information is held about a complainant to ensure its ongoing accuracy and, where appropriate, whether a third party such as social services have up to date information too. It could be to recommend the force consider a review of the risks to an individual and whether any further safeguarding measures can be put in place to protect a vulnerable individual.

11. When completing a review and deciding the outcome should be reflective practice, would you refer to the reflective practice review process (RPRP) or learning in your correspondence?

It is important when you have arrived at your review decision that you are clear in your decision letters whether the outcome is reasonable and proportionate or not, including your rationale why you have come to that decision. If the outcome is not reasonable and proportionate, you should make it clear what recommendations you are making.

RPRP is a process to learn, reflect and, if necessary, put things right to stop the issue identified happening again. It is important the referral to RPRP and the steps involved in the process are explained to the complainant in your decision letter. Jargon and technical language should be kept to a minimum. When a process such as RPRP is referenced, information should be provided to make sure the complainant understands what that means. Providing clarity at the outset can also influence the likelihood of receiving comebacks to your decision and having to address the matter further.

12. When completing a review, if the force has decided the service level provided was acceptable and I agree with this judgement as part of my review assessment, am I still able to uphold the review?

Yes. There are some circumstances when you may agree the level of service initially provided was acceptable but consider that the overall outcome to the complaint was not reasonable and proportionate. For example, it may be the initial level of service was acceptable, but insufficient information about the outcome of the complaint was provided to the complainant, meaning they could not understand the outcome. You may uphold the review on this basis.

13. What are our review considerations when key information has not been shared with the complainant during the complaint handling which may have resolved their dissatisfaction?

It is important to decide whether or not the outcome of the complaint could be understood by the complainant based upon the information provided. It is also important to establish whether or not the omitted information was assessed as part of the complaint handling, and if this information has the potential to alter the complaint outcome.

You should not uphold the review if you consider the outcome could be understood by the complainant and the missing information was assessed as part of the complaint handling and would not impact upon the outcome. However, you may wish to consider providing the missing information to the complainant, after checking with the appropriate authority. You can also consider raising this as an oversight issue with the appropriate authority.

The review should be upheld if you consider the outcome could not be understood by the complainant because of the missing information. Any reference to this missing information should be subject to the harm test (more information can be found in [Regulation 35 of the 2020 Police \(Complaints and Misconduct\) Regulations](#)).

14. When completing a review, key evidence such as body worn video (BWV) or CCTV footage has been lost and is no longer available to consider as part of the review. Am I still able to reach a review decision?

Yes. You should still objectively weigh and consider any information you do have to reach a decision.

There may be occasions when instead of BWV, you will have the investigating officer's notes that detail their account of the footage. They may be a useful alternative as long as these notes are dated to reflect when the footage was watched. Caution should be exercised if there is little or no other evidence, as the notes are an interpretation of what was viewed rather than the original material. Occasionally, in situations like this, it may end up being one person's word against another's with no objective evidence available to support what took place. In these cases, you should make your review decision on whether the outcome provided to the complainant appeared reasonable and proportionate but explain the limitations of your review to the complainant.

You may wish to consider feeding this back to the appropriate authority and emphasising the importance of record keeping.

15. I am finding complaint handlers are still referring to previous legislative processes in their letters, such as a right of appeal rather than right of review. The tone adopted within the outcome letter could be more empathetic. What can I do to address these issues?

The key consideration should be whether or not the outcome provided to the complaint was reasonable and proportionate. However, if you become aware of issues that do not impact upon the complaint outcome but are instead areas of learning for the appropriate authority and/or individual complaint handler, you should consider raising these as an oversight issue and providing feedback to the appropriate authority.

16. When completing reviews, I sometimes notice a complaint handler has favoured the officer's account over the complainant's account, despite no objective evidence available. What review considerations should I make when addressing this?

You will need to consider whether or not this has impacted any decisions made by the complaint handler, and therefore whether or not there has been any impact on the outcome provided to the complainant. When conducting your review, you should consider all of the evidence available to reach an

independent decision. You should consider upholding the review if you consider that the outcome has potentially been impacted. You may also consider raising this as an oversight matter with the appropriate authority and sharing your rationale with the complainant, as a means of being open and transparent.

If you do not consider the outcome of the complaint has been impacted, you still have the option of raising this as an oversight matter with the appropriate authority and sharing your observations with the complainant.

17. Would there still be a right of review if a complaint has been recorded but initial enquiries lead the appropriate authority to believe the complainant is ineligible to make a complaint, and they decide to take no further action?

If a person is considered ineligible from the outset, the matter should not be recorded as a complaint, even if the person complaining requests it. There is no right of review [under the Police Reform Act 2002] against this decision. However, if the appropriate authority (AA) has recorded the complaint, the requirements of Schedule 3 apply and there is a right of review. The relevant review body would need to be satisfied the matter does meet the definition of a complaint, as referred to in Section 12 of the Police Reform Act (PRA) 2002, in order for the review to proceed. If they deem it does not fit the criteria, then they would consider the review invalid, as the PRA does not apply.

The relevant review body should provide an appropriate explanation to the complainant, detailing why the review is considered invalid and cannot proceed. Conversely, if the relevant review body is satisfied the matter meets the definition of a complaint, they should assess and uphold the review in respect of any allegations that the complainant is considered eligible to make.

Reflective practice review process (RPRP)

18. RPRP is an outcome, so why am I seeing reflective practice also referred to as a process, when reviewing a case?

There are two types of reflection. The first is RPRP, defined within the legislation as the outcome of a complaint handled otherwise than by investigation (OTBI) or by investigation and the outcome of a conduct matter that has been investigated.

The other is 'reflective practice techniques' and is a method of handling a complaint dealt with by OTBI. Reflective practice techniques look and feel very similar to the formal RPRP. Line managers can ask their staff to reflect at any point during this process and are encouraged to use reflection techniques as part of daily learning and improvement. The College of Policing has resources available on its website for reflective practice and our guidance can be found in [Focus issue 14](#).

Where a review handler is considering upholding a review and recommending RPRP as an outcome, it is important to make enquiries with the force to establish if 'reflective practice techniques' were already used and if so, request evidence of this. As the processes are very similar, there would be little benefit in recommending the officer reflects a second time around.

Similarly, when considering RPRP as an outcome, it is important to check if the matters concerned were previously addressed in this way. RPRP and reflective practice techniques are appropriate for addressing one-off issues or instances where there were limited previous attempts to address any emerging concerns around performance.

19. Can an officer refuse to engage in RPRP if it has been recommended as part of the review decision?

RPRP is available to handle low level conduct, mistakes or performance issues that can be handled more proportionally and constructively. It is

designed to be non-adversarial with officers taking responsibility for their actions. Emphasis should not be on apportioning blame, but to learn and develop through reflection. As such all parties must be willing to listen, to reflect and to take meaningful action to learn lessons. If an officer refuses to engage with the process, the matter should be referred back to the AA for assessment. This could include dealing with the matter as a performance issue.

Relevant review body (RRB)

20. Should all discrimination complaints be referred to the IOPC automatically, and should the relevant review body be the IOPC for all subsequent reviews?

No, not all complaints of discrimination meet the criteria for mandatory referral. There is a two-part test which must be applied when assessing such complaints:

- I. Whether the conduct complained of constitutes a criminal offence or behaviour which is liable to lead to disciplinary proceedings, and
- II. which, in either case, is aggravated by the [alleged] discriminatory behaviour on the grounds of one of the characteristics the Equality Act 2010 protects.

If the complaint does not meet both parts of the test, then it will not meet this part of the mandatory referral criteria. The force would be expected to consider whether any other parts of the mandatory referral criteria apply before deciding whether it needs referring or not and who the relevant review body would be. [Chapter 9 of the IOPC's Statutory guidance](#) provides more information on the referral criteria and [Focus issue 19](#) provides more information on the relevant review body assessment.

21. We have received two complaints arising from the same incident and involve allegations being made against non-chief officer staff and the chief officer. Who is the relevant review body for these complaints?

As outlined in legislation, the IOPC is the relevant review body where:

- i. the appropriate authority is a local policing body
- ii. the complaint is about the conduct of a senior officer (an officer holding a rank above chief superintendent)
- iii. the appropriate authority 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 an 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
- vi. the complaint arises from the same incident as a complaint falling within ii-v
- vii. any part of the complaint falls within ii-v

Therefore, when considering the relevant review body test in these circumstances, as one of the complaints is about the conduct of a senior officer (ii) and the second complaint arises from the same incident (vi), the relevant review body for both complaints would be the IOPC.

22. Who should be the relevant review body for a matter previously looked into and where the complainant now alleges the officers have lied, but no further information has been provided or sought? The allegation of lying suggests dishonesty, so would the IOPC be the relevant review body?

No, not necessarily. You should expect that, where no additional information is provided other than 'the officers have lied', the complaint handler has contacted the complainant to understand in what context the officer/s are alleged to have lied. Early engagement would be needed to establish whether the allegation of lying meets the criteria for serious corruption, or whether it is

something more minor. This will assist in deciding whether the complaint fits the mandatory criteria for referral or not.

If the complaint is vague, no engagement has been made with the complainant and there is no context on which the complaint is based, then the relevant review body assessment should be made on the conduct alleged in the complaint.

If, however, the allegation of lying is made only when a review is submitted, the review handler would not be able to take the new allegation into consideration as the allegation was not made and recorded as part of the original complaint and has not been considered during the course of the complaint handling. Any such allegation would need to be handled as a new complaint.

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