



ipcc
independent
police complaints
commission



You and the police complaints system



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This leaflet explains how the role of the Independent Police Complaints Commission (IPCC) relates to police officers. It also explains the aims that the IPCC and the Police Federation share for the police complaints system.

We want to see good customer service right at the heart of the complaints system and confident handling of complaints by officers at a local level, where we can make a real difference to community confidence.

Together, we have worked with other policing, voluntary and community organisations to develop statutory guidance for forces about the complaints system. The guidance sets out four key aims:

- **increased confidence** in a system that treats everyone involved fairly – complainants, police staff and officers
- **to learn** from complaints, so that service to the public is improved
- **proportionate and timely** complaint investigations
- **greater access** to the system for the public

We believe that we now have a real opportunity for frontline officers, supervisors and police staff to become more confident in dealing with complaints as part of citizen-focused policing.

We also recognise that police officers need support to deal with complaints. This is particularly the case when they are the subject of a complaint.

The IPCC and the Police Federation look forward to working together further, not only to make the system fairer for all, but also to ensure that it is seen to be fairer.



Nick Hardwick
Chair, IPCC



Paul McKeever
Chair, Police Federation

The IPCC

The IPCC is the independent body that oversees complaints against the police in England and Wales. The Commission consists of ten operational Commissioners and two non-executive Commissioners in addition to the Chair. Each Commissioner is each responsible for specific forces.

The purpose of the IPCC is to ensure that suitable arrangements are in place to deal with complaints or allegations of misconduct against all police staff and officers, up to and including Chief Constables, serving within the police in England and Wales.

The IPCC also oversees serious complaints against Her Majesty's Revenue and Customs (HMRC), the Serious Organised Crime Agency (SOCA), and the United Kingdom Border Agency (UKBA).

How the IPCC works

The IPCC is a national organisation, delivered locally – with six regional offices covering North West England; Wales and South West England; Central and Eastern England; London; and South East England.

The IPCC can:

- manage or supervise a police investigation into a case, using our own investigators to independently investigate the most serious cases
- issue statutory guidance to forces on complaint handling
- analyse information from cases and investigations and research complaint trends and patterns
- gather feedback and information from communities about the police complaints system and about the police generally
- use call-in powers for specific cases – often those of particular public concern. The most serious cases must be referred to the IPCC by the police
- work with voluntary and community organisations at a regional level to promote greater access to the complaints system
- use its monitoring and inspection function
- work in partnership with the police service to drive forward improvements

The IPCC's guardianship role

The IPCC has a duty to increase public, police and police staff confidence in the police complaints system and, in doing so, contribute to increased confidence in policing as a whole.

The IPCC believes that the complaints system provides an opportunity to improve policing and develop excellence. A central part of the IPCC's guardianship role is to ensure that the lessons learned from investigations are fed back into operational policing.

The basis of the guardianship role is covered in these four elements:

- promoting confidence in the police complaints system as a whole
- ensuring that the police complaints system is accessible to all
- setting, monitoring, inspecting and reviewing standards for the operation of the police complaints system
- promoting policing excellence by drawing out and feeding back lessons.

The role of the Police Federation

The Police Federation of England and Wales (PFEW) is the representative body for police officers up to and including the rank of Chief Inspector. One of its primary functions is to advise and assist its members when they are the subject of a formal complaint or internal investigation.

If you are the subject of a complaint, the PFEW advises you not to panic and to contact your local Federation representative. They will explain the procedure and advise you what to do next.

Contact details for the PFEW are included at the back of this leaflet.

Handling a complaint

Many complaints against the police are handled by the police themselves. They can be addressed through Local Resolution or by a local police investigation. In the case of police officers, the matter will often be investigated by local management. This may mean your complaint is dealt with by your immediate supervisor or manager. Some complaints may be dealt with by your force's professional standards department (PSD).

A new misconduct system

Changes were introduced to the police misconduct system on 1 December 2008. These changes affect the way that complaints brought to the attention of police forces from this date are handled. If a complaint has been made against you, you should check with the person dealing with it to find out whether the new misconduct system applies and, if so, how this affects you.

The decision to record a complaint is unchanged by the new system. Once recorded, a complaint must be dealt with in line with legislative requirements within the Police Reform Act 2002. This leaflet highlights the main differences introduced on 1 December 2008.

Initial assessment under the new misconduct system

Under the new misconduct system, complaints are subject to an initial assessment. This assessment will inform how the complaint is handled and is subject to ongoing review. It may be apparent that the seriousness of the conduct complained about is minor, or that there is no misconduct. Other complaints may be assessed as being more serious, or subject to 'special requirements' as set out in the legislation. These will require a severity assessment to be carried out in order to determine whether the alleged conduct is categorised as either misconduct or gross misconduct.

The police complaints system

The diagram below shows the different ways in which complaints are handled.



Local Resolution

The IPCC believes strongly that Local Resolution can be a proportionate and effective way of resolving many complaints about both police officers and police staff. It is the simplest and most flexible way for people to tell the police what happened and find out why it happened. The IPCC believes that more complaints could be dealt with in this way and is keen to build officer and staff confidence in this method. The Police Federation also support Local Resolution as a means of dealing with complaints.

Sometimes, the best way to deal with a complaint about an officer or member of staff is for that person's senior officer or manager to talk with the complainant. They can establish what the complaint is about and take any appropriate action to put things right. The senior officer or manager may also want to take the opportunity to explain what has happened from the perspective of the police officer or staff member involved.

When a member of the public decides to have their complaint dealt with by Local Resolution they must sign a declaration to confirm that they are happy with the agreed process. Once the agreement has been signed, they cannot change their mind or have their complaint dealt with using a different method. If it proves to be impossible to deal with a matter through Local Resolution then the force must investigate the complaint.

Local Resolution is not part of the formal discipline process. Where a complaint or conduct matter is subject to Local Resolution anything you say about the subject matter of the Local Resolution process cannot be used in any disciplinary proceedings.

With Local Resolution, a formal notice telling you of an allegation and an intention to interview you is not necessary. However, forces should inform police officers and staff when a complaint is made about them and engage them in the Local Resolution process.

Your senior officer will usually deal with the Local Resolution process. You may be asked to comment on the complaint made against you. Any explanation you give is purely voluntary. It can be passed on to the complainant if you wish.

Nobody can apologise on your behalf unless you specifically authorise them to do so. But if you accept all or some of the events detailed in the complaint and/or you have an explanation for your actions and want this to be passed on to the complainant, this can be done.

It is important that both the complainant and the person being complained about are fully aware of the Local Resolution process. Information about what happens at each stage should be communicated in an accessible way to those involved. You should be clear about what Local Resolution is, and what it is not, and about what will happen in response to the complaint.

A complainant has the right to appeal against the Local Resolution process (for information about other types of appeal see page 17).

Local Resolution is important – half of all complaints are resolved in this way, so most people who handle a complaint will experience this system. If handled in a confident and professional way, Local Resolution will have a positive impact on the community's views about policing in their area and should increase public confidence and improve communication.

For more information about Local Resolution please visit:
www.ipcc.gov.uk/localresolution

Local police investigation

In some cases, an investigation may be appropriate. The extent of an investigation should be proportionate to the complaint or allegation of misconduct. In all cases, the force should consider what can be learned from the outcome of an investigation. If the matter is serious, your force's PSD might conduct the investigation.

The complainant has a right of appeal to the IPCC. This right of appeal remains under the provisions of the new misconduct system.

IPCC supervised investigation

This is an investigation conducted by, and under the direction and control of, the police, but supervised by an IPCC Commissioner. Supervised investigations apply when the IPCC decides that a complaint or allegation of misconduct is of considerable significance and probable public concern.

The complainant has a right of appeal to the IPCC. This right of appeal remains under the provisions of the new misconduct system.

IPCC managed investigation

A managed investigation is conducted by the police, but under the direction and control of the IPCC. Usually, managed investigations take place when the alleged recordable conduct matter is of such significance and probable public concern that its investigation needs an independent element.

Under the new misconduct system, the IPCC will assess the complaint or conduct matter to determine the severity of the conduct – whether it is misconduct or gross misconduct. The IPCC will consult the relevant police force when making this decision.

IPCC independent investigation

An independent investigation is conducted by IPCC staff into incidents that cause the greatest level of public concern, have the greatest potential to impact on communities, or have serious implications for the reputation of the police service.

Under the new misconduct system, the IPCC will assess the complaint or conduct matter in order to categorise it as either misconduct or gross misconduct. The IPCC will consult the relevant police force when making this decision.

Any interviews with staff or officers are conducted by the IPCC.

Complainants do not have a right of appeal against the outcome of managed or independent investigations. However, findings may be challenged in a court of law.

Regulation 9 notices (matters raised before 1 December 2008)

The purpose of a Regulation 9 (Reg 9) notice is to safeguard your rights. It allows you to recall details of the incident that led to a complaint being made, but it does not imply guilt. The notice should be issued to you as soon as possible after it becomes clear that an allegation involving your conduct will be included in the investigation. However, it need not always be issued immediately in circumstances where it could hinder a criminal investigation.

If you receive a Reg 9 notice, the PFEW advises you not to say anything before obtaining advice from your Federation representative.

If you are told you are going to be interviewed, you are strongly advised to contact a Federation representative. They will arrange to attend the interview with you or, in some circumstances, arrange for you to be legally represented.

Written notices (after 1 December 2008)

Under the new misconduct system, a written notice will be issued where an assessment has been made that your conduct, if proven, would amount to misconduct or gross misconduct. A written notice (Regulation 14A) should be issued to you as soon as possible following the assessment of your alleged conduct. The notice will tell you who is investigating the

complaint against you, explain details of the alleged conduct, and provide a reasoned assessment of whether the conduct amounts to misconduct or gross misconduct. Conduct may sometimes be reassessed later. You should be provided with an additional written notice if the original assessment changes.

The notice will inform you of your right to consult the PFEW or any other body.

If you receive a written notice, contact your local Federation representative as soon as possible. This is now more important than ever as the new system has time implications. There is a specific opportunity to provide a written response to this notice within ten working days, but this may be extended by the investigating officer. You may wish to seek guidance on this matter before deciding whether to respond.

Right to information

Making the complaints system as open and transparent as possible should lead to greater confidence in the process among those involved. Once an investigation is underway, staff and complainants alike must be kept informed at every stage.

The IPCC believes that making the investigating officer's (IO) report available is the most transparent way to show what the investigation has found. The IO report may be disclosed to complainants and police officers, subject to a harm test.

Interviews in misconduct investigations

Under the new misconduct system you will have the right to be accompanied to an interview by a police friend. They will not be able to answer questions on your behalf, but will be able to advise you.

Whoever is investigating the complaint against you should contact you first to try to arrange a time for interview. If this isn't possible they will send you details of a proposed date and time to meet. You have the right to suggest an alternative if either you or your police friend is unavailable on the proposed date. However, your suggested alternative must fall within five days of what was first proposed.

Further action

If no further action is taken against you as the result of a complaint, the matter cannot be referred to in personal development plans or staff appraisals. However, forces should always look at the lessons that can be learned from complaints.

In some circumstances, you may receive words of advice (complaints received before 1 December 2008) or management action (complaints received after 1 December 2008). This could happen if, for example, there has been a failure that does not breach a code of conduct (complaints received before 1 December 2008) or the Standards of Professional Behaviour (complaints received after 1 December 2008). As neither words of advice nor management action are a misconduct finding, there is no right of appeal if you are unhappy with the outcome.

Another possible outcome is a Superintendent's formal warning (complaints received before 1 December 2008), but this can be given only if the matter subject to complaint has been admitted.

In a few cases you may be called to appear before a misconduct panel (complaints received before 1 December 2008) or a misconduct meeting or hearing (complaints received after 1 December 2008). If this happens to you, you are advised to contact a Federation representative who will support you through the process.

Appeals

Members of the public can appeal to the IPCC if they are unhappy with the outcome of their complaint. If appropriate, the IPCC can direct the police to change their decision or to take further action.

There are three different types of appeal:

- appealing against a complaint not being recorded
- appealing against the Local Resolution process
- appealing against the police investigation into a complaint (though only those carried out locally or supervised by the IPCC, not IPCC managed or independent investigations)

In dealing with an appeal, the IPCC can change decisions that have been taken by your force. For example, the IPCC can require a complaint to be recorded, or different actions to be taken following the completion of an investigation.

Complaints against the IPCC

Any member of the public, including police officers, can make a complaint about the IPCC. We take complaints seriously and will deal with them as fairly and quickly as possible in order to learn from them and improve the system. The IPCC has a dedicated Complaints Manager, as well as a procedure for dealing with complaints against IPCC staff and Commissioners.

Reporting wrongdoing to the IPCC

The IPCC Report Line is a dedicated phone line and email address for police staff and officers who wish to report concerns of wrongdoing in their workplace. This facility is for use in cases where wrongdoing reveals or suggests that a criminal offence has been committed, or where there is evidence of conduct that would justify the bringing of disciplinary proceedings.

The Report Line aims to work alongside each force's existing internal practices, and endorses the IPCC's remit under the Police Reform Act 2002. Since the Report Line is seen as being supplementary to existing force practices, police officers and staff are, in the first instance, encouraged to contact their force's PSD or raise their concerns through management channels. The Report Line provides a single point of contact in the IPCC for those who may not feel comfortable using the reporting facilities that exist in their own force.

Police officers and staff can contact the Report Line between 10am and 5pm, Monday to Friday. Outside these hours, an answerphone facility is available. A member of the Report Line team will respond to all enquiries as soon as practicable.

The IPCC Report Line contact details are as follows:

Tel: 08458 770 061

Email: enquiries@ipccreportline.gsi.gov.uk

Remember: if in doubt, contact the Police Federation.

Tel: 01372 352 000

To find out more about the matters referred to in this leaflet, please visit the IPCC and the PFEW's websites:

www.ipcc.gov.uk

www.polfed.org

Or call:

IPCC – 08453 002 002

PFEW Headquarters – 01372 352 000

To obtain further copies of this leaflet, contact the IPCC:

Independent Police Complaints
Commission
90 High Holborn
London
WC1V 6BH

Tel: 08453 002 002

Email: enquiries@ipcc.gsi.gov.uk

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