

**Joint Audit and Scrutiny Panel Thematic Report; IOPC Investigations,
Recommendations and Actions**

1. Objectives

The objective of this report is:

- To provide an overview of matters that may be referred to the IOPC and the process for doing so.
- To provide an overview of matters that have been referred to the IOPC within the reporting period of 12/03/22 to 11/07/22.
- To provide details of how these matters have been dealt with including details of independent IOPC investigations and directed investigations relating to Nottinghamshire Police.

2. Overview of Referral of Matters to the IOPC

The Police Reform Act 2002 created the Independent Police Complaints Commission (IPCC – now the IOPC) and provided it with far-reaching powers to oversee complaints and conduct matters in respect of the police. These powers were modified in 2020 with the introduction of the new police conduct and complaint regulations.

Broadly speaking there are certain matters that must be referred to the IOPC, who will then make a decision about how they should be dealt with. There are three categories of incident that can be referred to the IOPC:

1. Incidents where a member of the public has died or been seriously injured following contact with the police (“death and serious injury” matters or “DSIs”).
2. Complaints that fit certain mandatory referral criteria or are subject to a voluntary referral.
3. Conduct matters that fit certain mandatory referral criteria or are subject to a voluntary referral.

DSIs

Incidents where a member of the public has died or been seriously injured following contact with a person serving with the police must be referred to the IOPC as a DSI matter. This applies to police officers, staff and volunteers and there is no limit on the time period between the contact and the death or injury although there must be some indication that the contact has caused or contributed to the death or injury. Any death or injury that occurs in a police station or while the person is under arrest automatically qualifies as a DSI. The threshold for injury is a broken bone, deep cut, loss of consciousness or loss of a sense or bodily function.

Typical referrals involve dog bites, use of force on arrest, traffic collisions, harm to missing persons before they are found, medical episodes in custody and detainees self-harming following their release from custody.

Investigations into DSI matters are not misconduct investigations unless there is an indication that an officer or member of staff has done something that may amount to misconduct.

Complaints

Certain complaints must be referred to the IOPC. These are:

- Complaints about a serious assault.
- Complaints about a serious sexual offence.
- Complaints about corruption, including the abuse of position for a sexual purpose.
- Complaints regarding a death or serious injury.
- Complaints about a serious criminal offence.
- Complaints that are deemed serious (subject to special procedures) and that concern matters of discrimination.
- Any complaint about a Chief Constable

In addition to this the PSD can voluntarily refer any complaint where there are matters of particular gravity and/or public interest, even if it doesn't meet any of the mandatory criteria. The IOPC also has the power to "call in" complaints and require forces to refer them. Where a complaint has been referred to the IOPC, the complainant's right to review is with the IOPC rather than the OPCC.

Decisions on whether to refer a complaint are made on the nature of the complaint taken at face value rather than on an assessment of whether the complaint could be substantiated.

Conduct Matters

Certain conduct matters must be referred to the IOPC, the mandatory referral categories are the same as for complaints. Also like complaints, conduct matters that are of particular gravity or public interest can be referred to the IOPC on a voluntary basis, and the IOPC can require PSDs to refer conduct matters or treat them as having been referred.

It is important to note that in order for a matter to be referred to the IOPC it must qualify as a conduct matter, meaning that there must be an indication that a criminal offence has been committed, or an officer/staff member has behaved in a way that would justify bringing formal disciplinary proceedings. More minor matters that do not meet this threshold cannot be referred.

3. Dealing with Referrals

When a matter has been referred to the IOPC by PSD, the IOPC will make a "mode of investigation" (MOI) decision. The possible options are:

- An independent investigation. The IOPC allocate the investigation to one of their investigators and make all of the key decisions around the investigation and the outcome.
- A directed investigation. The investigation is conducted by the local PSD under the supervision of the IOPC, who retain responsibility for setting the terms of reference and the direction of the investigation, and make the key decisions on the outcome.
- A local investigation. The investigation is conducted by the local PSD, who have complete responsibility for the direction of the investigation and decision making on outcome. In a complaint investigation the complainant has a right of review by the IOPC.

- Return to force. The IOPC returns the matter to the force PSD with no direction to investigate.

All DSI matters must be reviewed by the IOPC regardless of the mode of investigation.

4. DSI matters

When a DSI matter is referred to the PSD, the details are logged on the Centurion system including details of the deceased or injured person and all relevant documents. The matter is then reviewed by an appropriate authority, who makes the decision about whether the matter should be referred to the IOPC. Reasons for not referring matters include where the level of injury is not serious enough to meet the criteria for a “serious injury”, and where there is no indication that contact with the police has caused or contributed to the serious injury or death. In cases where there is doubt over whether a matter amounts to a DSI, it is accepted that the matter should be referred in the interests of transparency.

In the previous reporting period 17 cases were referred to the IOPC as DSI matters. In this reporting period, 5 cases have been referred. This is a significant drop. Details of the DSI referrals are contained below:

Suicide following arrest	0
Injury following a collision during police pursuit	0
Suicide following investigation for sexual offence	
Injury during arrest	
Self – inflicted injury during arrest	
Injury / death following police contact-other	2
Suicide while classified missing from home	0
Dog bite	1
Illness in custody	2

Of the five cases that were referred, two were returned to force with no direction to investigate, two were returned for a local investigation, and one was independently investigated.

In DSI cases where there is no misconduct element the investigator can make recommendations around individual and organisational learning and the performance of officers and staff.

5. Complaints

All complaints made to the PSD are logged on the Centurion system and an assessment is made about whether they should be referred to the IOPC. The final decision on whether a complaint meets any of the mandatory referral criteria or should be subject to a voluntary referral is made by the appropriate authority.

During the reporting period six complaints were referred to the IOPC as follows:

Serious sexual offence	0
Serious assault	0
Complaint related to death or injury	5
Relevant criminal offence	0
Serious corruption	0
Complaint relating to Chief Constable	0
Criminal/misconduct aggravated by discrimination	1
Voluntary referral	0

All of these complaints were returned to the PSD for a local investigation.

In addition to the mandatory referral criteria, PSDs are required to refer all complaints where a taser is used on a juvenile to the IOPC as voluntary referrals. A decision has also been taken to refer all matters involving police perpetrated domestic abuse (PPDA) to the IOPC as a voluntary referral.

6. Conduct Matters

Conduct matters are generally referred into the PSD internally when officers report potential misconduct by their colleagues or a review of video footage or other material suggests that misconduct has occurred. When a potential conduct matter is referred to the PSD the details are logged on Centurion and reviewed by an appropriate authority within the department. The appropriate authority makes the final decision about whether the matter does qualify as a conduct case based on whether there is an indication that the officer/staff member has committed a criminal offence or behaved in a way that would justify the bringing of formal disciplinary proceedings.

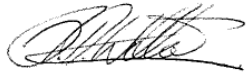
If their decision is that there is such an indication the matter will be converted to a conduct case. If not, the matter may still attract learning or performance outcomes for the officer/staff involved. The appropriate authority will also decide whether the matter meets any of the mandatory criteria for referral to the IOPC or whether it should be subject to a voluntary referral.

During the reporting period 5 conduct matters were reported to the IOPC as follows:

Serious sexual offence	2
Serious assault	0
Conduct related to death or injury	0
Relevant criminal offence	2
Serious corruption	0
Complaint relating to Chief Constable	0
Criminal/misconduct aggravated by discrimination	0
Voluntary referral	1

All of these matters were returned to force for PSD to conduct a local investigation. During the previous reporting period 11 conduct matters were referred to the IOPC, 3 for serious corruption and 8 for discrimination related matters. This is a significant fall.

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November 2022