

DRAFT FACTORS

Factors that may increase the seriousness of, or sensitivities surrounding, a matter

On receiving a referral of a complaint, death or serious injury (DSI) or conduct matter¹ from an appropriate authority², the IPCC determines if it is necessary for the matter to be investigated and if so, what form the investigation should take. In making this decision, we must consider the seriousness of the case and the public interest.

In February 2013, the Home Secretary announced that she would give the IPCC responsibility for dealing with “all serious and sensitive allegations”. We have therefore developed a list of factors to help us consider the seriousness and sensitivity of matters that are referred to us.

These factors will be considered at the point of referral, when full details of a matter are not always available. The presence of one or more of the factors does not mean that a matter will automatically be investigated independently. The factors are one part of how we determine how a matter will be dealt with. We will consider all relevant information when deciding whether a matter should be investigated independently.

We are currently trialling these factors. We plan to incorporate them into a wider assessment framework that is being developed.

These factors have no impact on the type of case that must be referred to the IPCC.

¹ A matter where no complaint has been received, but where there is an indication that a person serving with the police may have committed a criminal offence or behaved in a manner that would justify disciplinary proceedings.

² An appropriate authority can be:

- the chief officer of the police force
- the Police and Crime Commissioner responsible for the police force (where the matter is about a chief officer)

N.b. there are different appropriate authorities for certain other forces and agencies

DRAFT FACTORS

Note: while reference is made below to the police, these factors will apply in respect of any referral from any force or agency within the IPCC's jurisdiction, as relevant. These factors will not apply to complaints against a Police and Crime Commissioner (PCC).

a) Factors that may indicate greater responsibility (of the force/officer/member of police staff – individual or multiple)

Indication that the matter involves/raises potential concerns in relation to:
Senior officers and non-senior officers or members of staff with supervisory responsibilities <i>Senior officers refers to officers above the rank of chief superintendent (or police staff equivalent). Non-senior officers with supervisory responsibilities could include, for example, custody sergeants, duty inspectors, control room supervisors.</i>
Multiple officers/members of police staff <i>This may be apparent from a single referral or from awareness of other linked cases. This could include, but is not limited to, when officers have acted in concert.</i>
Premeditation <i>Indication of advanced planning of conduct/behaviour.</i>
Deliberate/malicious intent <i>E.g. indication of deliberate intent to cause more pain than necessary during restraint, disclosing information with intent to cause distress to an individual.</i>
Repeated similar behaviour or ongoing behaviour over a period of time <i>This may relate to different individuals/matters, or one individual/matter.</i>
Behaviour took place on duty <i>N.b. some conduct will be more serious and/or sensitive by virtue of the fact that it takes place on duty.</i>
Attempt to conceal wrongdoing <i>E.g. changing custody record or pocket note book entries, destroying evidence, lying about conduct.</i>
Conduct motivated by personal or financial gain

DRAFT FACTORS

E.g. to benefit the individual officer, a relative, his/her business interests.

Significant recklessness or failure(s) in the care/service provided

Where there is indication of significant harm as a result of failure(s) in the care/service provided, or where a force/officer/staff member could reasonably have foreseen that significant harm could be caused, whether or not it was caused.

Discriminatory behaviour

Indication that a force, officer or staff member may have:

- treated someone badly or unfairly because of a characteristic that they share with others; and/or*
- directly or indirectly discriminated against an individual on the basis of one or more of the protected characteristics as defined by the Equality Act 2010 (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation). This could include discrimination by association or perception.*

Criticisms or concerns raised by other officials or organisations

E.g. adverse judicial comments, significant concerns raised by the Crown Prosecution Service, coroners, Health and Safety Executive, parliamentary or other inquiries, social services, ambulance service, charities or voluntary sector organisations.

Criminality

Indication that someone currently or previously serving with the police may have committed a criminal offence when serving with the police.

Multiple forces

Indication that there may have been failings by more than one police force in relation to a matter/incident. This may be apparent from a single referral or from awareness of other linked cases.

A force's failure to respond to/improve following previous learning

DRAFT FACTORS

b) Factors that may indicate greater impact/harm (actual or likely)

Indication that the matter involves/raises potential concerns in relation to:
<i>Impact on individual(s)</i>
Serious physical injury to an individual <i>'Serious injury' means a fracture, a deep cut, a deep laceration or an injury causing damage to an internal organ or the impairment of any bodily function.</i>
Psychological injury/harm to an individual <i>Where it has been alleged, or the referral or other evidence indicates, that an individual has suffered significant psychological harm.</i>
Serious financial detriment to an individual/multiple individuals <i>N.b. what is serious financial detriment will vary from case to case and depend on individuals' financial circumstances.</i>
A vulnerable victim or complainant <i>I.e. someone who is less able to take care of or protect themselves (for example for reasons of age - including juveniles and the elderly - physical health, mental health, mental health together with drug/alcohol use) or someone who is particularly vulnerable due to other circumstances. This could include cases of repeated or targeted victimisation and instances when vulnerability is increased due to the location, for example a medical setting.</i>
Victim or complainant who is a member of a protected group <i>Protected group refers to the protected characteristics as set out in the Equality Act 2010.</i>
Potential breach of an individual's rights under Article 2 of the European Convention on Human Rights (ECHR) <i>Indication that the police may have caused or contributed to an individual's death/life threatening injuries or failed to protect life in certain circumstances (i.e. bear some responsibility for an individual's death) and the courts have recognised that Article 2 is engaged in the relevant circumstances (such as deaths in custody, police use of lethal force etc).</i>
Potential breach of an individual's rights under Article 3 of the ECHR <i>Indication that there is a credible allegation an individual has suffered torture or inhuman or degrading treatment as a result of the actions</i>

DRAFT FACTORS

or inactions of the police.

Potential breach of an individual's other rights under the ECHR

I.e. including, but not limited to, Article 6 (right to a fair trial), Article 8 (right to respect for private and family life, home and correspondence), Article 10 (right to freedom of expression), Article 11 (right to freedom of assembly and association).

Impact on confidence in a police force, the wider police service or the police complaints system

Public concern – locally, nationally and/or among a particular community or group

Indicators may include media, parliamentary or ministerial interest; concerns regarding multiple forces; particularly high profile matters or controversial areas of policing; concerns raised by local or community stakeholders; current or historical issues regarding police/community relations.

Concern regarding/loss of public confidence in a police force/multiple forces

Indicators may include previous similar concerns relating to the same force; lack of effective response to/learning from concerns previously raised by the IPCC, inquiries or other oversight bodies; the force's actions impacting negatively on other police forces or agencies.

Concern regarding/loss of public confidence in a particular area of policing

This could include concern regarding a new policing tactic or piece of equipment.

Concern regarding/loss of public confidence in the police complaints system and/or the IPCC

Indicators may include previous flawed handling of a complaint/investigation by a force/other body or the IPCC, concerns regarding the ability of the force/other body to handle/investigate appropriately.