

FOCUS

Focus gives police force professional standards departments (PSDs) and local policing bodies practical guidance on dealing with complaints, conduct matters, and death or serious injury cases. It supports them to handle complaints appropriately and improves standards. This issue focuses on handling of complaints in line with the *Policing and Crime Act 2017*

www.policeconduct.gov.uk/focus

ISSUE SIXTEEN/FEBRUARY 2020

Handling allegations about the chief officer

Quick links

What constitutes a complaint against a chief officer?	2
Expressions of dissatisfaction and eligibility to complain	2
Complaints after chief officers address the public	2
Directing complaints to the correct appropriate authority	4
Complaints against a chief officer that are raised during another process	6
Referrals to the IOPC involving a chief officer	7
Reasonable and proportionate handling of complaints	9
Outside Schedule 3 of the PRA	9
Reasonable and proportionate handling under Schedule 3	10
Complaints that involve more than one appropriate authority	14

This issue of Focus provides practical best practice examples of approaches to common complaints and scenarios that local policing bodies may receive about chief officers¹. We advise you to read this alongside Annex A of our [Statutory Guidance](#), which includes information about handling complaints and conduct matters about chief officers. [Other issues of Focus](#) also provide general information about complaint handling, which applies across all cases, including those involving chief officers.

What constitutes a complaint against a chief officer?

Expressions of dissatisfaction and eligibility to complain

[Focus issue 13 on Handling complaints - decisions and thresholds](#) gives practical examples of responses to expressions of dissatisfaction made by members of the public. The principles covered in that issue apply to complaints against chief officers.

Chief officers engage with the public in a different way to most police officers. They are not usually involved in frontline policing, but they can still be the subject of a complaint. They may also be included in complaints made about their police force. When people raise concerns about chief officers, local policing bodies should establish whether the matter is an expression of dissatisfaction and make sure the complainant is eligible to complain², as they do for all complaints. Local policing

bodies are the appropriate authority only when a complaint is about the conduct of the chief officer. Therefore, it is vital that the local policing body clarifies whether a complaint that references the chief officer does actually involve his or her conduct. If it is about the decisions of the force in general, or about a delegated power rather than the chief officer, these matters should be directed to the correct appropriate authority.

Chief officers or local policing bodies may receive complaints about the chief officer that do not relate to their direct actions, but instead reference actions that have been delegated or given to another member of the police force to carry out. From a complainant's point of view, the chief officer represents the force. These complaints are often made in good faith, but without a clear understanding that in practice, the matter does not involve the chief officer. It is best to provide a response that explains that the matters raised will be addressed by the appropriate department. The response should include information about the next steps.

Complaints after chief officers address the public

Chief officers sometimes address the public directly. This may be through press releases or other content aimed specifically at the public. If someone expresses dissatisfaction with the content of a chief officer's statement and they are adversely affected³ by the content, this should be logged as a complaint.

1 For the purposes of this publication, 'chief officers' refers to chief constables and the commissioners of the Metropolitan Police Service and the City of London Police.

2 For more information about someone's eligibility to complain, please see paragraphs 5.3–5.6 of our Statutory Guidance, and our issue of Focus that looks at handling complaints - decisions and thresholds.

3 See section 29, *Police Reform Act 2002* and paragraph 5.6 of our Statutory Guidance. A person will be considered to have been adversely affected if they have suffered any form of loss, damage, distress or inconvenience as a result of the matter complained about, if they have been put in danger or otherwise unduly put at risk of being adversely affected.



CASE STUDY ONE

Complaint about lack of police response to a media report

A member of the public read a media report about failings identified by NHS trust management. They wrote to the local policing body stating that the chief constable of the local force had failed to uphold the law because he had not acted upon this news report. The complainant stated their belief that the chief constable should have instructed officers to criminally investigate the matters raised in the report.

The complainant clearly expressed dissatisfaction with the conduct of the chief constable. However, she was not adversely affected by the matters raised, which meant she was not eligible to raise a complaint.

The local policing body should make a record of the contact and explain to the member of the public why the matter is not eligible to be treated as a complaint. The explanation should refer to the fact that the concerns she raised about the NHS trust had been passed to the appropriate department in the force for consideration.



CASE STUDY TWO

Chief constable's comments in press conference lead to complaints

A force arranged a press conference to address concerns about the tactics used by police in response to protests carried out by a group of environmental campaigners who were unhappy about a local development. The campaigners and members of the community attended the press conference. During his statement to the press the chief constable said that the campaigners had to accept some responsibility for the escalation of events. He said that they had been drinking before the protest and were drunk and disorderly, meaning that police had to employ more aggressive tactics to gain control of the situation.

The campaigners were unhappy with the comments and believed they were made to cover up poor policing tactics and taint their characters.

Because the chief constable's comments directly affected members of the campaign group, they were eligible to complain.



CASE STUDY THREE

Chief constable publicly criticises inquiry witnesses

A chief constable issued a press release following the conclusion of a public inquiry. He used this to express his opinion that the inquiry's progress was hampered by a delay in obtaining certain witness accounts. He commented that the inquiry would have made better progress if it had secured the co-operation of these witnesses sooner.

Scenario A: a member of the public listened to the press release and complained that the chief constable's comments about the witnesses were inappropriate. The complainant felt that, given his role, the chief constable should have remained neutral.

Although the chief constable's press release was directed at the public, the person who complained was not adversely affected by the criticism of the witnesses. This means they were not eligible to make a complaint. The local policing body should set out why they are not eligible to complain, and explain that the feedback will be noted.

Scenario B: one of the witnesses involved in the inquiry heard the chief constable's comments. He felt that the language used by the chief constable was inappropriate and made a complaint. He said that the comment about witness co-operation had distressed him and his family, and he felt he was being blamed unfairly. He explained that reaching his decision to help the inquiry had taken a long time and had involved great sacrifice to his personal wellbeing and that of his family.

The complainant was adversely affected by the chief constable's comments as they were directly about him. He was eligible to make a complaint.

Directing complaints to the correct appropriate authority

Where it is clear immediately that a complaint is not about a chief officer, the local policing body should forward the complaint to the correct appropriate authority and inform the complainant that this has been done⁴.

The local policing body should keep a record of the type of contact so that they can answer any queries the complainant may have about their correspondence.

⁴ See paragraph 2, Schedule 3, *Police Reform Act 2002* and paragraphs 6.5 – 6.7 of our Statutory Guidance, which is available on our website.



CASE STUDY FOUR

Complaint from a former police officer forwarded to the correct appropriate authority

A retired police officer complained about how the chief constable of her former force handled the pension scheme. She complained that the chief constable had failed officers and not allowed pension reviews to address concerns about the way the pension scheme was being administered.

This expression of dissatisfaction was made by someone who was eligible to complain because the matters she raised happened after her employment with the force had ended.

However, although the chief constable was named in the complaint, the administration of pension schemes is usually delegated to the human resources department or to an independent pensions administrator. The local policing body was immediately aware that they were not the appropriate authority for this complaint because they knew what arrangements were in place for the administration of the force's pension scheme. The complaint was forwarded to the appropriate authority and the complainant informed this had been done.



CASE STUDY FIVE

Complaint referred to department responsible for data storage

A person complained that the chief constable of their force had failed to follow the General Data Protection Regulations (GDPR). They complained the force held incorrect information about them on their systems, and believed that the chief constable was responsible for the way that the force stored data.

This complaint was made by someone who was eligible to complain. However, although the chief constable is named in the complaint, information held on the police computer system is the responsibility of a delegated department. The chief constable is not directly responsible for putting the information on the system.

It was immediately obvious that the complaint was not about the chief constable. The local policing body forwarded the complaint to the correct appropriate authority and informed the complainant this had been done.



CASE STUDY SIX

Complaints about matters that are unlikely to have involved the chief officer

A woman complained that she wrote to her force's chief constable several times to obtain an update on her case and received no reply. She used a social media platform to post her comments and directly engaged the force and the chief constable's social media account to express her frustration.

The local policing body identified that they were not the appropriate authority for this complaint. The local policing body was aware of the arrangements in the force and that responding to requests for updates on cases was handled by police officers, not the chief constable. The local policing body forwarded the complaint to the correct appropriate authority and informed the complainant this had been done.

While the woman's social media contact is an expression of dissatisfaction, it is not about the chief constable. If the complaint involves a matter for which the chief officer is not directly responsible, then the local policing body is not the appropriate authority. In these cases, they should pass the matter to the force to consider.

If the local policing body takes steps to establish who the appropriate authority is, but it remains unclear whether the matters complained about relate to the chief officer, then the complaint should be logged and looked into.

Complaints against a chief officer raised during another process

Complainants may change who they complain about as they progress through their contact with the complaints system. Complaints against or involving a chief officer may be included in correspondence sent for another reason – for example, a review application.



CASE STUDY SEVEN

Being alert to emerging matters

A local policing body received an application for review. The review related to a long-standing dispute between neighbours which resulted in complaints against several police officers. In the paperwork submitted for the review, the complainant stated he had routinely copied the chief constable into previous correspondence about the complaints. His complaint also stated he had sent correspondence directly to the chief constable, who had personally responded and assured him it would be passed to the person investigating his complaint. After receiving the decision on his complaint, he said he did not believe that the chief constable had passed on the information. He said the chief constable had withheld important information, which would prove the local police officers failed in their duties.

The local policing body contacted the complainant to acknowledge both the review and the additional complaint against the chief constable. They asked how the complainant wanted the latest complaint to be handled and went on to make a decision about whether it should be referred to the IOPC.

If a complaint involving a chief officer requires a referral to the IOPC, the full context for the complaint, including details of any ongoing related complaints or reviews handling should be included. This will enable the IOPC to make a fully informed mode of investigation decision.

Referrals to the IOPC involving a chief officer

General guidance about referrals is included in [our Statutory Guidance](#) and in the [issue of Focus](#) that covers this area. When referrals to the IOPC relate to a chief officer, different tests apply depending on whether the referral involves a complaint or a conduct matter⁵.

For complaints, the mandatory referral criteria⁶ includes any complaint relating to a chief officer where the appropriate authority is unable to satisfy itself from the complaint alone that the conduct complained of, if proved, would not justify the bringing of criminal or disciplinary proceedings⁷. The test must be applied to the substance of the complaint alone, and not to the merit of the allegation.

Any material that has been gathered should not be reviewed, but instead sent to the IOPC. We will review it and decide whether the indication test⁸ has been met.

For all complaints involving chief officers, the first consideration after logging is whether the complaint should be recorded and referred.

For conduct matters, in deciding whether the matter relates to conduct, the local policing body will already have applied the indication test by reviewing the available evidence to decide if there is an indication that the chief officer may have committed a criminal offence, or behaved in a way that would justify the bringing of disciplinary proceedings. Therefore, all conduct matters, as they already meet that definition, must be referred to the IOPC.

5 See section 12, *Police Reform Act 2002*. For more information see chapter 8 and paragraph A8 of our Statutory Guidance.

6 See Chapter 9 of our IOPC Statutory Guidance and Regulations 4 and 7, *Police (Complaints and Misconduct) Regulations 2020*.

7 In this case, for members of a police force or special constables, disciplinary proceedings means any proceedings under the *Police (Conduct) Regulations 2020*, apart from the reflective practice review process. It does not include unsatisfactory performance procedures.

8 See paragraphs 10.7 to 10.9 of our Statutory Guidance.



CASE STUDY EIGHT

Local policing body refers allegations to the IOPC

A woman complained she had seen the chief constable of her local force, and his wife, being driven to a local school in an unmarked police car to collect their children. She had seen this happen several times. She also reported having seen an unmarked police car taking the chief constable to the supermarket and waiting while he completed his weekly shopping. The woman said she had seen the chief constable being picked up while drunk after evenings out at social events with friends and family. She considered the use of the police car for personal reasons to be inappropriate and an abuse of his position. She felt that in a time of austerity, this was a poor use of police resources, which could be used in the community to fight crime and deal with the rising crime rates.

This allegation was recorded under Schedule 3 of the Police Reform Act (PRA) and referred to the IOPC by the local policing body. Based upon the complaint alone, the local policing body could not satisfy itself that the conduct complained of, if proved, would not justify the bringing of criminal or disciplinary proceedings. The local policing body informed the complainant that they had referred the matter to the IOPC.



CASE STUDY NINE

Deciding whether to refer allegations based solely on the wording of a complaint

A man went to an event attended by his force's chief constable to discuss his concern about a particular policy decision. He complained that the chief constable was abrupt with him and refused to discuss the matter. The man asked that the matter be treated as a formal complaint.

From the information provided, the local policing body decided that the chief constable's actions, if proved, would not justify the bringing of criminal or disciplinary proceedings. Being abrupt and refusing to discuss something would not result in criminal or disciplinary proceedings. In line with the complainant's request, the local policing body recorded the allegation under Schedule 3, but decided there was no requirement to refer the complaint to the IOPC.

If, when contacted by the local policing body the man said the chief constable was abrupt and refused to discuss the matter and believed this was because he was part of the travelling community, this would need to be referred to the IOPC.

Based on the information provided, the local policing body should refer the matter in this situation. This is because it is not able to satisfy itself that the conduct complained of, if proved, would not justify the bringing of criminal or disciplinary proceedings.

Once the IOPC receives a complaint referral, we will apply an indication test. If there is an indication that the chief officer may have committed a criminal offence or behaved in a way that might bring disciplinary proceedings, the IOPC is required to carry out an independent or directed investigation. In cases where the IOPC does not consider there is either indication, the case will be returned to the local policing body for reasonable and proportionate handling.

For all conduct referrals, the local policing body will already have applied the indication test and the IOPC will decide whether a directed or independent investigation is appropriate.

Following a complaint referral, if a local policing body is handling a case that has been returned to them to deal with and they discover information that gives an indication that criminal or disciplinary matters have occurred, they must notify the IOPC of their concerns.

Reasonable and proportionate handling of complaints

Outside Schedule 3 of the PRA

More details about the principles of reasonable and proportionate complaint handling are available in [the IOPC Statutory Guidance](#). Guidance on handling complaints outside Schedule 3 can be found in the [Focus issue](#) that covers this area. Many complaints against a chief officer will be suitable for handling outside of Schedule 3 because an explanation is often all that is needed to resolve a matter to the satisfaction of the complainant. As with all complaints, the local policing body should try to understand the reasons behind the complaint and identify exactly what the complainant wants to be addressed.

CASE STUDY TEN

Identifying misunderstandings

A man submitted a complaint to his local policing body that was almost identical to a complaint that had been investigated already by the police force's professional standards department (PSD). In the new complaint to the local policing body, the man added an additional allegation that the chief constable had failed to ensure that his complaint had been dealt with appropriately.

The latest complaint was logged and a complaint handler contacted the man. The complainant explained he had made the complaint about the chief constable because he was unhappy with the outcome of his previous complaint. The complaint handler explained that the chief constable had not had any direct involvement with the man's original complaint, as responding to this was work that was delegated to the PSD. The complaint handler explained how the review process worked and said that their office could now review the handling of the original complaint.

The complainant was satisfied that his original complaint was being reviewed. He also confirmed that he was satisfied with the explanation about the chief constable having had no involvement in dealing with his original complaint.

By speaking to the complainant and explaining the chief constable's role and the review process, the matter was not escalated further, and the root of the complainant's dissatisfaction could be addressed.

Reasonable and proportionate handling under Schedule 3

The criteria for recording complaints under Schedule 3 is set out in our Statutory Guidance⁹. An eligible complainant can request that their complaint is formally recorded under Schedule 3 at any time during the handling of their complaint. In addition, if they are dissatisfied with the outcome of any initial handling, and want the complaint to be recorded, then it must be recorded under Schedule 3.

Some complaints that have been recorded and referred to the IOPC will not meet the threshold for the indication test. In this situation, there is no requirement for us to investigate the complaint and it will be passed back to

the local policing body to address. Local policing bodies should follow the principles of reasonable and proportionate handling to resolve the matters raised. Good customer service should be at the heart of the response the local policing body provides. Additional examples can be found in the issue of [Focus 14 on complaints handling under Schedule 3](#).

CASE STUDY ELEVEN

Providing a complainant with an explanation and explaining right of review

A woman made a complaint about a letter she received from the chief constable. She explained she was trying to obtain information about her friend's death for several years and she believed there had been a police cover up. She had written directly to the chief constable about her concerns and the chief constable had responded personally. Although she had now obtained information about her friend's death, the woman was dissatisfied with the wording of the letter. She felt it was dismissive, condescending and rude. She wanted her complaint to be treated formally. The local policing body recorded the complaint in line with her wishes.

The local policing body was satisfied there was no requirement to refer the complaint to the IOPC and reviewed the chief officer's letter and background information. They then contacted the complainant to discuss her complaint. The local policing body apologised to the complainant for how the letter had made her feel, but explained they considered the chief officer's response to be thorough and to have addressed her concerns in an informative and sensitive manner. They also explained the level of enquiries the chief officer had carried out to make sure they had a thorough understanding of the circumstances before they replied.

The handling of this complaint was appropriate given that it was about the tone and content of a letter. The complaint handler explained how much preparation had been done before the letter was drafted. They also provided the complainant with a written outcome and explained how to apply for a review.

9. See paragraphs 6.25 - 6.30 of our Statutory Guidance.

In some circumstances, a matter that was initially dealt with outside of Schedule 3, but is subsequently recorded at the request of the complainant, does not need any further activity in addition to the work done outside Schedule 3. In these situations, the complaint should

include an assessment of the service provided. This should decide whether the service was acceptable or not. The complainant should be notified of the outcome, and their right of review.

CASE STUDY TWELVE

Deciding when no further activity is required

A chief constable set out the new force priorities for the year ahead in a public blog. She explained the force would be focusing its resources on domestic violence issues for the coming year. She confirmed funding for this would be redirected away from local community policing and that communities may see a decrease in officer presence. A man who read the blog contacted the local policing body to complain that the announcement on the blog was flippant and dismissive in terms of the issues caused by anti-social behaviour. He said that the blog had caused worry, concern and upset to his family and his son. He explained his son had been mugged several times in the past, but that this had not happened since the increased presence of the community police officers. He was concerned that his son would be mugged again now with the change of focus of policing. He felt the chief constable's phrasing implied that anti-social behaviour was not important or serious and diminished the impact of anti-social behaviour on him and his family, and others like them.

The local policing body contacted the complainant to discuss his complaint and to see how he wished it to be handled. The complaint handler reviewed the tone of the blog and let the chief constable know that there had been a complaint about the wording used. The chief constable apologised for any offence caused and explained her emphasis on domestic violence in no way meant that she was being dismissive of the effects of anti-social behaviour. She was acutely aware of the impact of anti-social behaviour and acknowledged her decision would impact many communities. She said the feedback about the blog would be noted, and she would consider how decisions were communicated in the future.

The local policing body gave a full explanation and offered the complainant an apology. The complaint handler also provided his objective view on the tone, which he did not consider to be dismissive or flippant. The complaint handler confirmed the man's concerns about anti-social behaviour in his area would be passed to his local police so they could discuss with him the particular impact of funding changes for his local area.

The man was not happy with this explanation and requested his complaint be handled formally. The local policing body recorded the complaint in line with this request.

The matter was not referred to the IOPC as it was clear from the complaint alone that the conduct complained about, if proved, would not justify the bringing of criminal or disciplinary proceedings.

The complaint handler reviewed the actions already taken. He decided that the original explanation completed outside Schedule 3 was sufficient to address the complaint and no further activity was needed.

The local policing body provided the complainant with a written outcome and explained his right to apply for a review.

There will also be situations where a complainant requests that their complaint be recorded, but it is reasonable and proportionate for the local policing body to

take no further action. When this happens, local policing bodies should provide the complainant with a clear rationale to explain why they are taking no further action.



CASE STUDY THIRTEEN

Complaint against chief constable relates to off-duty family situation and does not need to be referred

The brother of a chief constable made a complaint that the chief constable was acting in her own self-interest, when carrying out her role as the executor of their mother's estate. He complained the chief constable should be handling the estate better, and that her poor decisions in this area demonstrated that she was not fit to carry out her role as chief constable. The brother said he was complaining because the situation had caused a lot of upset within this family, and he felt it was his duty to make the force aware of this behaviour. He wanted his complaint to be formally recorded.

The local policing body was satisfied that there was no requirement to refer this complaint to the IOPC. The complaint involved an off-duty matter with no relevance to the chief constable's role in the police. There was nothing to suggest the alleged behaviour would discredit the police service or undermine public confidence, or that it would justify the bringing of criminal or disciplinary proceedings. In order to handle the complaint in a reasonable and proportionate manner, the complaint handler contacted the complainant and explained that was a personal matter relating to off-duty conduct, and that it did not bring the force into disrepute. The local policing body also provided a written outcome explaining why the way the complaint was handled was reasonable and proportionate, and setting out the complainant's right of review.



CASE STUDY FOURTEEN

Allegation involving a chief constable referred to the IOPC and referred back

A chief constable was visiting a local youth centre to meet members of the local community and key stakeholders. He was there to promote a new force initiative aimed at tackling a spate of crime in that area. A local journalist attending the event complained that the chief constable assaulted him by deliberately and aggressively brushing past him as he left the event. The journalist believed that this was because he had asked challenging questions during the event. He complained to the local policing body and signposted them to his blog, where he had written the details of his complaint. The local policing body recorded the complaint and referred it to the IOPC because an allegation of assault, if proved, would justify the bringing of criminal or disciplinary proceedings.

The local policing body provided the IOPC with all the readily available evidence to support the referral. This included media footage, which showed the encounter as the chief constable left the event from different angles. The footage showed no contact at all between the chief constable and the journalist. The contact was made by another person in the vicinity. The IOPC decided to send this case back to the local policing body for reasonable and proportionate handling as there was no indication that the chief officer had done anything that, if proved, would result in criminal or disciplinary proceedings.

The local policing body invited the journalist to come and view the footage, which showed it was not the chief constable who had brushed past him at the event.

This complaint was handled appropriately and in a reasonable and proportionate manner. Although the complainant's perception of what had happened meant that the complaint had to be referred to the IOPC, the matter did not warrant an IOPC investigation. Providing the complainant with an explanation of why the chief constable was not involved was reasonable and proportionate.

Complaints that involve more than one appropriate authority

There will be cases where more than one appropriate authority is involved in a complaint – for example, a complaint that refers to both a chief officer and someone serving in the force. The local force and local policing body must work together to make sure the correct body deals with the correct elements of such complaint. The local policing body should

ensure that it shares the information needed by the local force. The local force can then make informed decisions on the aspects that they are the correct body for. They must also ensure that they do not share any information that is not needed for that purpose. The organisations involved must communicate well and ensure that robust processes are in place so that the complainant receives good customer service, and the complaints are handled consistently.

CASE STUDY FIFTEEN

Referring an incident to the IOPC when it involves more than one appropriate authority

Following a period of poor relations with the community, a force held an event for stakeholders to promote community policing. A member of the public overheard the chief constable speaking to a community beat officer in the corridor. He complained that the comments the chief constable made to her were derogatory. He described hearing comments such as ‘don’t be such a girl’, and that she needed to ‘man up’ and ‘not spend all her time on maternity leave’ if she wanted to progress in the force. He also heard ‘I wouldn’t want a ditzy blonde like you in charge of a gun’. The complainant said that the comments left him upset and concerned about the type of leadership the force had. He added that a chief inspector was also present during the exchange and did not challenge the behaviour.

There were two appropriate authorities in this case. The force was responsible for complaint about the chief inspector, and the local policing body was responsible for the complaint about the chief constable. The allegation about the chief constable was referred to the IOPC. Based upon the complaint alone, the allegations of sexist comments, if proved, would be likely to justify disciplinary proceedings. Although the actions of the chief inspector did not meet the mandatory referral criteria for all other police officers, their lack of challenge during the exchange was intrinsically linked to the allegation about the chief constable.

The investigation into the comments also looked at the chief inspector’s actions. The local policing body co-ordinated with the force to ensure that the chief inspector was referred voluntarily to the IOPC. This meant the IOPC’s mode of investigation decision included all the people involved in the incident.

Get in touch

This guidance was published by the Independent Office of Police Conduct (IOPC) in February 2020, and was correct at the time of publication. Contact the IOPC for further advice, or if you need a copy of this issue in another language or format.



030 0020 0096



enquiries@policeconduct.gov.uk



[policeconduct.gov.uk](https://www.policeconduct.gov.uk)



[@policeconduct](https://twitter.com/policeconduct) [@IOPC_Help](https://twitter.com/IOPC_Help)