



independent  
police complaints  
commission

# HANDLING POLICE COMPLAINTS

## A GUIDE FOR MPs AND THEIR STAFF

## What is the IPCC's role?

The IPCC was established by the Police Reform Act (PRA) 2002 and became operational in 2004. Its primary statutory function is to increase public confidence in the police complaints system in England and Wales. It does this by investigating the most serious complaints and allegations of misconduct against the police in England and Wales, and handling appeals from people who are not satisfied with the way police have dealt with their complaint. The IPCC is independent and makes its decisions entirely independently of the police, government and complainants.

Operational Commissioners oversee and take ultimate responsibility for IPCC investigations. By law, Commissioners must never have served as a police officer.

In April 2006, the IPCC's remit was extended to include serious complaints relating to staff at the Serious Organised Crime Agency and Her Majesty's Revenue and Customs (where HMRC Officers are using 'police like' powers). February 2008 saw its jurisdiction extended further to include the UK Border Agency on a similar basis to HMRC.

The IPCC has approximately 450 staff based in five locations in England and Wales and has a budget of around £37 million per annum.

## What does the IPCC do?

The IPCC deals with:

*Referrals.* If someone dies or suffers a serious injury after contact with a police officer or member of police staff, the force involved must by law refer the incident to the IPCC – even where no complaint has been made and no misconduct alleged. As well as deaths and serious injuries, forces must also refer certain other incidents to the IPCC, for example those involving corruption. In 2009/10, the IPCC dealt with approximately 2,500 referrals.

*Complaints.* The IPCC investigates the most serious matters and complaints relating to the conduct of an officer or member of police staff. Complaints must be about the conduct of a person serving with the police and cannot merely be about the substance of a local police policy or how that service is organised. In 2009/10, approximately 30,000 complaints against the police were made. About 11,000 of these were made directly to the IPCC.

*Appeals.* The IPCC may consider an appeal into the failure of the police to record a complaint, the Local Resolution process or the outcome of a local or supervised investigation. In 2009/10, the IPCC dealt with approximately 5,500 appeals.

The IPCC also has an integral role in contributing to improvements in policing practice. The IPCC has published regular Learning the Lessons bulletins highlighting improvements and best practice for police forces and others – these are available from the website [www.learningthelessons.org.uk](http://www.learningthelessons.org.uk)

Every year, the IPCC's Annual Report is laid before Parliament. This report contains detailed information regarding demand for IPCC services and organisational performance in meeting these demands, along with the organisation's accounts.

## Advice if.....

### *...Your constituent wishes to make a complaint against the police*

Complaints can be made directly to the force concerned or via the IPCC. The IPCC does not have the power to record complaints – this is done by the relevant police force or police authority. This means that if your constituent chooses to send their complaint to the IPCC, the IPCC will need to send it onto the force so that a recording decision can be made. The IPCC will need your constituent's consent to do this. Without this consent, the IPCC is normally unable to send it on which means the complaint will not be dealt with. If the force decides not to record the complaint, your constituent will have a right of appeal to the IPCC.

As an MP, you may make a complaint on your constituent's behalf, but again you will need written consent to do this.

Complaints can be made in a number of ways (via phone, email, post) but the most effective way is to use a complaint form which can be downloaded from the IPCC website:

[http://www.ipcc.gov.uk/index/complaints/your\\_complaint\\_/how\\_complaint.htm](http://www.ipcc.gov.uk/index/complaints/your_complaint_/how_complaint.htm)

In order to assist the IPCC/force in progressing the complaint, your constituent should include as much of the following information as possible:

- What happened, and when it happened
- Who was involved, and what was said and done
- Whether there were any witnesses other than the complainant and the person serving with the police, and where the witnesses can be contacted
- Details of any damage or injury which took place.

Complaints about 'direction and control' or operational matters are excluded from the IPCC's remit. If your constituent has any complaints about these areas, they should contact the Chief Constable of the force concerned or the relevant police authority.

Below are some examples of complaints involving both conduct and direction and control issues:

*A girl in her teens is stopped by the police and searched, according to the explanation given by the officer, for firearms. She complains that she should not have been stopped.* This is a complaint which should be recorded under the Police Reform Act.

*A chief constable has sought and obtained the necessary legal authority for officers to stop and search members of the public at all railway stations in the force area, under the Terrorism Act. A member of the public (who has not yet been stopped) complains he will be at risk of being stopped without reason.* This is a direction and control decision and is not a recordable complaint under the Police Reform Act.

## Advice if.....

### *...Your constituent has already made a complaint against the police*

The relevant force will have to make a decision as to whether the complaint is recordable under the criteria set out within the Police Reform Act 2002. If the force decides not to record the complaint, your constituent will have a right of appeal to the IPCC.

Once recorded, most complaints are dealt with by the police force concerned. Often this can be under the process called Local Resolution which involves officers and/or their supervisors explaining and resolving issues directly with the complainant. The IPCC encourages this process where appropriate as it is often the most proportionate, timely and effective way of resolving people's concerns. Complaints dealt with in this way cannot result in misconduct proceedings being taken against any officer or member of police staff. Local Resolution can only be carried out with the agreement of the person making the complaint.

More serious complaints (or in circumstances where the complainant does not agree to Local Resolution) will require local investigation by the relevant force. These investigations are carried out entirely by the police – usually by an officer from the force's own Professional Standards Department, which is operationally separate from the officer/s complained about. The IPCC expects every investigation to be proportionate to ensure that, in the public interest, investigative resources are focused and employed efficiently and fairly. Complainants have a right of appeal to the IPCC at the end of a local investigation.

Only complaints which are of the most serious nature or those which risk undermining public confidence in the police come to the IPCC for investigation. There are three different types of investigation at the IPCC's disposal – supervised, managed and independent. Commissioners, along with the investigative team, will consider the facts of each case and will make a mode of investigation decision as to which type of investigation will be undertaken.

Some more information on each type of IPCC investigation is provided below:

#### *Supervised*

Carried out by the police under their own direction and control. The IPCC will set out what the investigation should look at and receive the investigation report when it is complete. Approximately 160 carried out per year.

#### *Managed*

Carried out by police forces under the direction and control of the IPCC. Approximately 130 carried out per year.

#### *Independent*

Carried out by the IPCC's own investigators and overseen by an IPCC Commissioner. In an independent investigation, IPCC investigators have all the powers of the police themselves. Approximately 100 carried out per year.

## Advice if.....

### *...Your constituent wishes to appeal to the IPCC*

The IPCC considers appeals from complainants into:

- the failure of a police force to record a complaint
- the Local Resolution process
- the outcome of a local or supervised investigation.

Appeals can be made using the relevant form found on the IPCC website:

[http://www.ipcc.gov.uk/index/info\\_leaflets/appealing\\_leaflets.htm](http://www.ipcc.gov.uk/index/info_leaflets/appealing_leaflets.htm)

The IPCC must receive appeals within 28 days of the date of the letter received from the police either informing of a non-recording decision or of the outcome of a complaint investigation. Any appeals received outside of this timeframe do not have to be considered.

Once the appeal form has been received, the IPCC will send your constituent an acknowledgement letter. The IPCC will tell the relevant police force about the appeal and will request any background papers from them. Once this information has been received, the IPCC can assess the appeal and determine the outcome.

If the IPCC uphold the appeal, they will give instructions to the relevant force or police authority regarding what actions they have to take. The IPCC will tell your constituent in writing what instructions have been given to the police and what happens next.

If the IPCC decide not to uphold the appeal, they will write to your constituent explaining the reasons why this was the case.

In creating the IPCC and the complaints system in the Police Reform Act, Parliament decided that there should be no right of appeal against an IPCC decision and no right to refer to any other ombudsman. The IPCC is governed by the legal principle of *functus officio*. This means that any decision made by the IPCC can only be overturned by the Courts through the judicial review process.

## IPCC Information Leaflets

There are a wide range of IPCC information leaflets available which explain the different stages of the complaints process. These may be helpful to your constituents and can either be downloaded from the IPCC website or can be sent out in hard copy in request.

The web link is:

[http://www.ipcc.gov.uk/index/complaints/info\\_leaflets.htm](http://www.ipcc.gov.uk/index/complaints/info_leaflets.htm)

A full list of leaflets is below:

- A guide to the work of the IPCC
- How to make a complaint against the police
- Dealing with your complaint by local resolution
- Appealing against the non recording of your complaint under the Police Reform Act 2002
- Appealing against the police investigation into your complaint
- Appealing against the Local Resolution process
- You and the police complaints system (for police officers and police staff)
- Complaints against HMRC officers
- Complaints against members of SOCA
- Complaints against UKBA staff

Some of these are available in other languages and in alternative formats—please contact the IPCC for further information.

## Further Information

Further information about the IPCC and the police complaints system can be found on the IPCC website at [www.ipcc.gov.uk](http://www.ipcc.gov.uk)

There are also a wide range of leaflets available which explain the different stages of the complaint process. If you would like to receive any of these leaflets, or if you would like further advice on how to deal with a constituency case, please contact the IPCC's Parliamentary Officer, Lianne Corris on 020 7166 3185 or [lianne.corris@ipcc.gsi.gov.uk](mailto:lianne.corris@ipcc.gsi.gov.uk)

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