

Guidance on the Recording of Complaints Under the Police Reform Act 2002

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Contents

	Acknowledgements	i
1	Introduction	1
2	Complaints: a Definition of Terms	3
3	Measuring Timeliness of Complaint Activity	7
4	Common Issues in the Recording of Allegations	9
5	Definitions of Allegation Categories	13
6	Definitions of Allegation Categories and Link to the Codes of Conduct	17
7	Definitions of Allegation Categories and Link to Standards of Professional Behaviour	21
8	Recording Conduct Matters	25
9	Frequently Asked Questions	27

1 Introduction

The police have a duty under the Police Reform Act 2002 to record complaints about the conduct of a person serving with the police.¹ The accurate and consistent recording of complaints plays a part in ensuring public confidence in the complaints system. It also contributes to a sound evidence base to inform development of future policy and practice at local and national levels.

The Independent Police Complaints Commission (IPCC) and police service want to encourage consistent recording practice and have produced the following guidance with this aim. It has been written by representatives from a number of Professional Standards Departments (PSDs). As practitioners they have specifically written this document for those people who have a day-to-day responsibility for recording police complaints on software packages such as Centurion, Tribune and Web-Focus. The aim is to support those recording police complaints and to specifically:

- improve the quality of recording within PSDs and ensure that this reflects the complaint being made and how it is subsequently handled;
- promote greater consistency in recording across forces and allow better comparison between forces.

The guidance in this document concerns public complaints as defined under the Police Reform Act 2002. We start by reproducing a section from the IPCC's Statutory Guidance on recommended recording practice (See Box A). Chapters 2 and 3 define a range of terms used in relation to police complaints and then outline a number of measures of timeliness of complaint activity. The aim is to promote a standard language in connection with these complaints and a standard set of measures which can be used across forces. A complaint case may have one or more allegations attached to it and the next four chapters address the recording of allegations. These deal with definitions of allegation categories and the number of allegations that should be recorded in various scenarios. They also provide greater information on the definition of categories for the recording of allegations and map the allegation categories to the "Codes of Conduct" and the "Standards of Professional Behaviour". However, at the request of police representatives, we have included two short sections on the recording of Conduct Matters where there may be no public complainant. Lastly, the guidance provides answers to a series of Frequently Asked Questions.

Much of the content of this document builds on and expands on that included in the Statutory Guidance produced by the IPCC. We are aware that various planned developments will

have an impact on the content of the guidance presented here. These include legislative changes which will affect the Police Reform Act 2002 and forthcoming reforms to the police discipline system. Our intention is to amend the guidance to reflect these changes and to integrate it into future versions of the Statutory Guidance. Finally, the information contained in this document relates to complaints received after 1st April 2004 and applies to those defined under the Police Reform Act 2002. It should be applied from 1st April 2008.

Recommended recording practice

- Start with the presumption that where a member of the public expresses dissatisfaction which, on the face of it, is a complaint about conduct, it is valid under the Police Reform Act 2002 and should be recorded.
- Where the wishes of the member of the public are unclear, explain the information in, or provide a copy of the IPCC leaflet "How to make a complaint against the police", or invite further information. Do not discourage someone from making a complaint.
- If it is unclear whether a complaint is about conduct or the direction and control of the force, record and proceed with a complaint about the conduct until it does become clear. This is in accordance with the Home Office guidance on direction and control complaints (Home Office Circular 19/2005).
- Local procedures for direction and control complaints should have checks to ensure that a wrongly categorised complaint can be picked up and pursued under the conduct system.
- Where there are concerns about the capacity of the person who is making the complaint, either provide support, if practical, or record the complaint and then consider the need for support in follow-up action.
- Where a decision is taken not to record a complaint about conduct, the reason should be explained to the complainant who should be advised of the right of appeal to the IPCC. Good practice is to provide the IPCC leaflet "Appealing against the non-recording of a complaint".

Taken from "Making the New Complaints System Work Better", IPCC Statutory Guidance, 2005.

¹ Schedule 3, paragraph 2, Police Reform Act 2002.

2

Complaints: a Definition of Terms

The following definitions have been provided to promote a common language with regard to the recording of complaints and measures of timeliness.

Allegation: a complaint allegation concerns the conduct of a person serving with the police. It is made by someone defined as a complainant under the Police Reform Act 2002. An allegation may be made by one or more complainants about the conduct of one or more persons serving with the police. An allegation will be recorded against an *“Allegation Category”* (see the tables in Chapters 6 and 7), for example *“Serious Non-sexual Assault”*, *“incivility, Impoliteness and Intolerance”* and *“Corruption or Malpractice”*.

Allegation Results: these are either substantiated, unsubstantiated, withdrawn², discontinued, or subject to dispensation or to Local Resolution.

Complainant: under Section 12 of the Police Reform Act 2002 a complainant is someone complaining about the conduct of a person serving with the police and who is either:

- a) a member of the public who claims to be the person in relation to whom the conduct took place;
- b) a member of the public not falling within paragraph (a) who claims to have been adversely affected by the conduct;
- c) a member of the public who claims to have witnessed the conduct;
or
- d) a person acting on behalf of a person falling within any paragraphs (a) to (c) who represents any of the above. This category of person is classed as an *“agent”* or *“representative”*, NOT as a complainant in their own right, and must have the written permission of the complainant. Examples are: solicitors acting on behalf of clients, parents/guardians acting on behalf of their children/wards, and members of *“gateway”* organisations (e.g. Citizens Advice Bureau, Racial Equality Council) acting on behalf of members of the public who have approached them and requested that they do so. This is not an exhaustive list.

Police officers and police staff cannot complain under any circumstances about other serving officers or staff in the same force. Nor may they complain about incidents involving members of other forces while both parties are on duty. In the above circumstances they should raise any such concerns through their management channels and have a general responsibility to do so. Managers should then decide whether to record their concerns as a Conduct Matter. A former police officer or police staff member who has retired, resigned or been dismissed from a police force cannot make a complaint about someone in relation to an incident that happened during the time they worked in that force³.

A complainant or their representative may make one or more allegations in respect of an incident against one or more persons serving with the police. An allegation may be made by one or more complainants. Being *“adversely affected”* is broadly interpreted in the legislation and includes distress, inconvenience, loss or damage, or being put in danger or at risk. This might apply, for example, to other people present at the incident, if they can show how they have been adversely affected, or to the parent of a child or young person, or a friend of the person directly affected. It does not include someone distressed by watching an incident on television.

“Witness” has a narrow interpretation. A witness is defined in the Police Reform Act 2002 as someone who *“acquires his knowledge of that conduct in a manner which would make him a competent witness capable of giving admissible evidence of that conduct in criminal proceedings”*. This includes, for example, someone in possession of material evidence.

Complaint Case: each complaint case represents a single investigation and/or a Local Resolution. It may contain one or more linked allegations, brought by one or more complainants, against one or more persons serving with the police.

Date Allegation Received into Force⁴: this is the date when a complainant or their representative contacts a police force and makes an allegation. There can be a number of allegations

³ See Section 29(4) Police Reform Act 2002.

⁴ The date of the first allegation received into force will always be the same as Date Complaint Case Received into Force. Subsequent allegations may be made at a later date. This enables the measurement of timeliness for both cases and allegations.

² Withdrawn includes those that are *“Not pursued”*.

attached to a complaint case and these may be made over a period of time.

Date of Appointment of an “Appointed Officer”: is the date a person serving with the police is appointed to locally resolve a case.

Date of Appointment of an “Investigator/Investigating Officer”: is the same date as that on which the complaint case is recorded where an investigation is required.

Date Complaint Allegation Finalised: is the date when the PSD sends a letter to the complainant, or their representative, informing them of the result. It does not include any period of time during which a complainant may make an appeal. The appeal time starts on the date when the letter is sent.

Date Complaint Case Finalised: is the point at which all police action relating to a complaint case has been concluded. Examples are:

- when a Local Resolution has been completed and the time during which an appeal could be lodged with the IPCC has elapsed or any resulting appeal has been concluded.
- when an investigation has been completed, but does not lead to criminal or misconduct proceedings, and any resulting appeal by the complainant has been concluded.
- when an investigation is completed and criminal and/or misconduct proceedings are finalised, any sanctions are implemented and any appeal has been concluded.
- when an investigation has been discontinued or dispensed.

The period in which a complainant may make an appeal is 28 calendar days from the date the letter is sent to the complainant, or their representative, notifying them of the outcome of the case. The IPCC will only accept appeals beyond this period if there are *exceptional* circumstances. The IPCC has a further two working days to inform the relevant force.

Date Complaint Case Received into Force: is the date when a complainant or their representative first contacts a police force to make an allegation. Contact may be on a face-to-face basis or involve a telephone call, email, fax, or letter. If time is needed to decide that an allegation concerns the conduct of a

person serving with the police, this should still be the date when the complainant or their representative first contacted the police force about the matter.

Date Complaint Case Recorded: is the date when the first allegation in a case is recorded on a PSD database.

Date Investigation Completed: depends on the mode of investigation.

- a) In a local or supervised investigation it is when the complainant or their representative is notified of the findings of the investigation and any resulting proposals from the appropriate authority. This would also include the date when the complete file is sent to the Crown Prosecution Service (CPS), or the IPCC if appropriate. It does not cover further stages such as prosecution, or any appeal that may be made by the complainant.
- b) In IPCC independent or managed investigations it is when the appropriate authority is notified of the findings of the investigation. This would include when the file is sent to the CPS if appropriate. It does not cover further stages such as prosecution.

Date Local Resolution Completed: is the date when the PSD dates *and* sends a letter to the complainant, or their representative, informing them that the action plan to which they agreed has been completed⁵. It does not include any time needed to undertake other longer-term actions which arise from a Local Resolution (e.g. an officer may undertake training). It does not include any period of time during which a complainant may make an appeal. The 28-calendar-day period during which a complainant may make an appeal starts on the date when the letter is sent. The IPCC has a further two working days to inform the relevant force.

Incident: is an event or series of clearly connected events relating to the conduct of a person or persons serving with the police. An incident may give rise to one or more allegations.

Incident Date: is the date the incident or alleged behaviour occurred.

⁵ Note: the date on the letter and the date of posting should be the same.

Local Resolution: means the handling of a complaint in accordance with a procedure where:

- a) a formal investigation is not involved;
- b) the conduct complained of (even if proved) would not justify the bringing of any criminal or disciplinary proceedings⁶.

Person Serving with the Police: under the Police Reform Act 2002, a person is serving with the police if they are:

- a) a police officer, which includes a special constable who is under the direction and control of a chief officer;
- b) a member of police staff, including a Police Community Support Officer (PCSO), who is under the direction and control of the chief officer.

The legislation also covers contracted employees who a chief officer has designated as either:

- a) a detention officer, or
- b) an escort officer.

⁶ For further details on Local Resolution see Schedule 3, paragraphs 6 and 8 of the Police Reform Act 2002.

3

Measuring Timeliness of Complaint Activity

The following measures are an initial step in building a picture of police activity and performance in response to complaint cases concerning police conduct.

Time taken to record a complaint case: is the number of working days from *Date Complaint Case Received into Force* to *Date Complaint Case Recorded* (when the first allegation is recorded and an investigating officer appointed). The police will decide whether a complaint should be recorded under the Police Reform Act 2002 and “*the IPCC expects the police to record a complaint within ten working days*”⁷ from receipt of the complaint.

Length of time to locally resolve an allegation: is the number of working days from *Date Allegation Received into Force* to *Date Local Resolution Completed* (i.e. the date the complainant is informed by letter from the PSD). The “*clock*” stops only for sub judice reasons. It should stop on the date that a case is declared sub judice. The “*clock*” should start again when sub judice no longer applies.

Length of time to investigate an allegation: is the number of working days from *Date Complaint Case Recorded* to *Date Investigation Completed* (i.e. the date the complainant is informed by letter from the PSD). The “*clock*” stops only for sub judice reasons. It should stop on the date that an allegation is declared sub judice. The “*clock*” should start again when sub judice no longer applies.

Overall time from first receiving an allegation which is investigated to notifying the complainant of result: is the number of working days from *Date Allegation Received into Force* to *Date Investigation Completed*. The “*clock*” stops only for sub judice reasons. It should stop on the date that an allegation is declared sub judice. The “*clock*” should start again when sub judice no longer applies.

⁷ See page 22, “Making the New Complaints System Work Better”, IPCC Statutory Guidance, 2005.

4

Common Issues in the Recording of Allegations

A Complaint Case may have one or more allegations attached to it. The main object of distinguishing and separately recording different allegations in the following ways is to enable the figures for substantiated and unsubstantiated allegations to be clearly identified. Where a complaint is couched in general terms but a subsequent investigation identifies a number of allegations each should be recorded separately. Each complainant has a right of appeal against the findings of an investigation and it is important, therefore, that all complainants are recorded, even though their complaints are exactly the same as those made by other members of the public.

Same allegation made by different people

Where several people make the same allegation relating to the same incident these should be recorded and counted as one allegation. For example, if an officer is alleged to have assaulted a person, and the person directly affected and a witness both raise their concerns about this conduct, this will be recorded as one allegation, involving two complainants and one person serving with the police.

Multiple allegations of different types resulting from the same incident

A person receiving or recording a complaint may identify one or more allegations of different types arising from a single incident.

Example A: a complainant alleges that she was pushed and the officer swore at her. This should be recorded as two separate allegations, i.e. “*Other Assault*” and “*Incivility, Impoliteness and Intolerance*”.

Example B: a complainant alleges that an officer made a racist remark while swearing at him. This should be recorded as two separate allegations, i.e. “*Discriminatory Behaviour*” and “*Incivility, Impoliteness and Intolerance*”.

Example C: a complainant alleges that an officer pushed her and at the same time made a racist remark while swearing at her. This should be recorded as three separate allegations, i.e. “*Other Assault*”, “*Discriminatory Behaviour*” and “*Incivility, Impoliteness and Intolerance*”.

Multiple allegations of the *same type* involving one officer

If a complainant alleges a series of *like* actions involving one officer and these form one *continuous incident*, this should be recorded as a single allegation. Where a series of assaults have been alleged, the most serious should be recorded. This would be recorded as substantiated if an investigation established that any one of the alleged actions took place.

Example D: a detainee alleges that while being booked into custody he was refused access to legal advice, not allowed a telephone call and refused a copy of the PACE Codes of Practice. The booking-in procedure would be seen as one continuous incident; the matters raised by the complainant all relate to breaches of Code C PACE and should therefore be recorded as one allegation.

Example E: a detainee alleges assault on arrest and again in the car on the way to the station, by the same officer. This should be recorded as one allegation.

However, if the matters occurred at different times, then these would not form one *continuous incident* and should be recorded as different allegations.

Example F: a detainee alleges that while in custody she was refused legal advice when booked in, two hours later was refused medical attention, and two hours after that was refused food. These are three separate incidents and therefore should be recorded as three separate allegations concerning breaches of PACE Code C.

Multiple allegations of the *same type* involving more than one officer

If a person alleges a series of *like* actions involving *more* than one officer, each of whose actions are clearly identified, they should be recorded as separate allegations.

Example G: a detainee alleges assault on arrest by Officer A and again in the car on the way to the station by Officer B. These are two separate allegations.

Multiple allegations of *different types* against more than one officer

If more than one officer is concerned and different actions are linked to each one, they should be recorded separately according to the nature of each allegation, and not by the most serious allegation made.

Example H: a Professional Standards Department receives a letter from a member of the public alleging that during a foot stop one officer was rude to her and that another officer assaulted her. The allegation against Officer A and the allegation against Officer B both need to be recorded as part of the same case.

Multiple complainants making *similar* allegations resulting from the same incident

Where a group of people make similar allegations about the treatment they have received during a single incident, each person's allegation should be recorded and counted separately, and each person treated as a complainant.

Example 1: in a mass demonstration, several people present subsequently complain that they were assaulted. These are separate allegations and should be recorded as such.

5

Definitions of Allegation Categories

Category B: Sexual Assault

Category C: Other Assault

Category D: Oppressive Arrest or Detention or Harassment

Category E: Unlawful/Unnecessary Arrest or Detention or Harassment

Category F: Discriminatory Behaviour

Category G: Irregularity in Decision to Evidence/Perjury

Category H: Corruption or Malpractice

Category I: Mishandling of Property

Category K: Breach of Code A PACE on Stop and Search

Category L: Breach of Code B PACE on Searching of Premises and Seizure of Property

Category M: Breach of Code C PACE on Detention, Treatment and Questioning

Category N: Breach of Code D PACE on Identification Procedures

Category P: Breach of Code E PACE on Tape Recording

Category Q: Lack of Fairness and Impartiality

Category R: Unspecified breaches of PACE which cannot be allocated to a specific code

Category S: Other Neglect or Failure in Duty

Category T: Other Irregularity in Procedure

Category U: Incivility, Impoliteness and Intolerance

Category V: Traffic Irregularity

Category W: Other

Category X: Improper Access and/or Disclosure of Information

Category Y: Other Sexual Conduct

The following definitions have been provided to assist those recording allegations linked to complaint cases. Please note that any examples given in this section are simply a guide. They are neither exhaustive nor inclusive.

Category A: Serious Non-sexual Assault

Inclusion in this category is solely dependent on the nature of the injuries.

1. This includes Section 18 or 20 assaults, Offences Against the Person Act 1861, i.e. unlawfully or maliciously wounding or causing grievous bodily harm with or without intent, up to and including homicide. Examples are: injury resulting in permanent disability or permanent loss of sensory function, fracture, deep cut or deep laceration and injury causing damage to an internal organ or the impairment of any bodily function. The IPCC Statutory Guidance provides directions on the threshold of injury for Mandatory Referral.

2. This includes Section 47 assaults, Offences Against the Person Act 1861. Examples are: loss or breaking of a tooth or teeth, temporary loss of sensory functions (which may include loss of consciousness), extensive or multiple bruising, displaced broken nose, minor fractures, minor (but not merely superficial) cuts of a sort probably requiring medical attention (e.g. stitches) and psychiatric injury that is more than fear, distress or panic. The IPCC Statutory Guidance provides directions on the threshold of injury for Mandatory Referral.

Category B: Sexual Assault

This concerns rape, attempted rape and any assault surrounding or involving circumstances of indecency. This category relates to sexual matters only. IPCC Statutory Guidance provides directions on the threshold for Mandatory Referral.

Category C: Other Assault

This concerns use of more force than is reasonable. Inclusion is solely dependent on the nature of the injuries. This includes common assault contrary to Section 39, Criminal Justice Act 1988, which deals with assault and battery. Injuries include: grazes, scratches, abrasions, minor bruising, swellings, reddening of the skin, superficial cuts, and a “black eye”. This category includes minor injuries resulting from the use of handcuffs. It also includes

minor assaults resulting in no injury, such as pushing. A person serving with the police must never knowingly use more force than is reasonable, nor should they abuse their authority. This category includes any unjustified use of force or personal violence (but not technical assaults arising from unlawful arrest) and any incident involving police dogs or horses where the incident is attributable to the conduct of the member in control, unless the severity of injury puts them into Category A above.

Category D: Oppressive Conduct or Harassment

This includes unjustified interference, questioning or surveillance; for example, an improper request for driving documents. It may include allegations concerning unjustifiable examples of routine traffic checks, persistent police presence or persistently following. Allegations here do not relate to police detention or police interviews under PACE.

Category E: Unlawful/Unnecessary Arrest or Detention

This concerns unlawful/unnecessary arrest or detention with regard to Section 24 PACE (power of arrest without warrant) as amended by Section 110 of the Serious and Organised Crime and Police Act in respect of proportionality, reasonableness and necessity. “Unlawful” should be interpreted as the officer having insufficient powers to make an arrest or to detain in the circumstances. “Unnecessary” should be interpreted as meaning that the criteria laid down in Section 24 PACE have not been met.

Category F: Discriminatory Behaviour

This includes any allegation which involves an element of discrimination or is perceived to do so at any stage. Discrimination may be committed on the grounds of ethnicity, gender, sexual orientation, faith/religion, disability or age. Discrimination should be thought of in terms of treating people differently through prejudice or unfair treatment of one person or group.

If there are associated allegations (e.g. incivility or assault) then these should be recorded separately. In addition, discriminatory behaviour may be identified by anyone receiving, recording or investigating a complaint.

Category G: Irregularity in Relation to Evidence/Perjury

This includes perjury or allegations of falsehood; for example, allegations that an officer made a false statement, or induced witnesses to give evidence falsely. Allegations may include taking evidence from witnesses but should not relate to breaches of PACE Codes of Practice.

Category H: Corruption or Malpractice

This includes allegations of corruption or malpractice. Corruption is the abuse of a role or position held, for personal gain or gain for others. This ranges from serious corruption (e.g. any attempt to pervert the course of justice; theft; criminal damage) to the less serious (e.g. misuse of warrant card).

Category J: Mishandling of Property

This includes all allegations relating to the mishandling of property. Reasonable care must be exercised in order to prevent loss or damage to property (excluding an officer's own personal property but including police property). A breach of this category includes the loss of property including money; unreasonable retention of property; damage to property in police custody; failure to account for money or property; and improper disposal of property, but excludes those from Breach of Code B PACE (Category L) and property record-keeping in Code C PACE (Category M).

Category K: Breach of Code A PACE on Stop and Search

This includes unjustified use of the relevant power, particularly where reasonable suspicion cannot be supported, and failure to act appropriately before or during a search, or to make the necessary record where practicable. Similar allegations from non-PACE Stops and Searches should also be recorded in this category (e.g. Section 44 Terrorism Act 2000, and Section 60 Criminal Justice and Public Order Act 1994). If there are associated allegations (e.g. incivility or assault) then these should be recorded separately.

Category L: Breach of Code B PACE on Searching of Premises and Seizure of Property

This includes unauthorised entry on search; failure to provide information to the occupier; an improper or excessive search; failure to record searches properly; not securing premises where necessary; and breaches of rules on seizure or retention. This will include property seized and retained under this power.

Category M: Breach of Code C PACE on Detention, Treatment and Questioning

This includes failure to inform detained persons of their rights and entitlements; unjustified obstruction of access to legal advice; holding persons incommunicado; not providing necessary support/advice to young/vulnerable detained persons; failure to maintain proper custody/property records; not providing mandatory physical conditions whenever practicable; not carrying out searches on detained persons in accordance with the code; conducting review of detention improperly or at inappropriate intervals; failure to caution or charge when required; interviewing oppressively or in inappropriate circumstances; not making proper records of interviews nor allowing them to be checked by suspects where practicable; and not providing interpreters where necessary.

Category N: Breach of Code D PACE on Identification Procedures

This includes failure to provide suspects with information about identification procedures or to offer them a choice between procedures where appropriate; not conducting or recording identification procedures properly; not obtaining necessary consent to the taking of fingerprints, photographs or body samples; and not providing suspects with the opportunity to witness destruction of fingerprints or photographs where appropriate.

Category P: Breach of Code E PACE on Tape Recording

This includes failure to tape record (without good reason); failure to handle tapes openly and in front of the suspect or to maintain adequate tape security; and not making a proper record of objections, complaints, breaks etc.

Category Q: Lack of Fairness and Impartiality

An example of this would be a failure to treat all parties equally where there are allegations and counter-allegations. This category should not include allegations arising from any breach of PACE (Categories K to P and R) or those related to *Discriminatory Behaviour*.

Category R: Unspecified breaches of PACE which cannot be allocated to a specific code

We would expect this category to be used very rarely. It should not be used in relation to multiple allegations of breaches of PACE. See guidance for advice on recording of multiple allegations. This category may be initially used where unspecific allegations are made but should be revisited as the case is investigated and specific issues are identified.

Category S: Other Neglect or Failure in Duty

This includes allegations with regard to a lack of conscientiousness and diligence concerning the performance of duties. This may include failure to record or investigate matters and keep interested parties informed. It includes failure to comply with orders, instructions or force policy.

Category T: Other Irregularity in Procedure

This includes other procedural irregularities not falling within Category S; for example, misleading a member of the public in order to achieve a course of action.

Category U: Incivility, Impoliteness and Intolerance

This includes allegations of abusive, offensive or rude language or behaviour. It does not include harassment (see Category D). If there are associated allegations (e.g. *Discriminatory Behaviour*) then these should be recorded separately.

Category V: Traffic Irregularity

This includes allegations only about the driving or use of vehicles in connection with police business. It does NOT relate to officers speaking to members of the public in relation to traffic offences.

Category W: Other

This includes any allegations which do not fall into any of the other categories. This category should not be used as a “catch all” but should be revisited as the case is investigated and specific issues are identified.

Category X: Improper Access and/or Disclosure of Information

This concerns allegations relating to improper disclosure or use of information held for police purposes. This includes misuse of police computer systems; accessing information for personal reasons; requests for information made by family or friends; approaches by private investigators; and unauthorised disclosure to the media.

Category Y: Other Sexual Conduct

This includes allegations not amounting to assault and including sexual harassment or soliciting of prostitutes. This includes allegations of paedophilia.

6

Definitions of Allegation Categories and Link to the Codes of Conduct

Category A: Serious Non-sexual Assault

Category B: Sexual Assault

Category C: Other Assault

Category D: Oppressive, Abusive or Harassment

Category E: Unlawful/Unnecessary Force

Category F: Discriminatory Behaviour

Category G: Irregularity

Category H: Corruption

Category I: Mishandling of Property

Category J: Breach of Code A PACE on Search

Category K: Breach of Code B PACE on Searching of Person and Seizure of Property

Category L: Breach of Code C PACE on Detention, Treatment and Questioning

Category M: Breach of Code D PACE on Identification Procedures

Category N: Breach of Code E PACE on Tape Recording

Category O: Lack of Fairness and Impartiality

Category P: Unspecified breaches of PACE which cannot be allocated to a specific code

Category Q: Other Neglect or Failure in Duty

Category R: Other Irregularity in Procedure

Category S: Incivility, Impoliteness and Intolerance

Category T: Traffic Irregularity

Category U: Other

Category V: Improper Access and/or Disclosure of Information

Category W: Other Sexual Conduct

Definitions of Allegation Categories and Link to the Codes of Conduct

Category	Allegation	Definition	Code of Conduct
A	Serious Non-sexual Assault	<p>Inclusion in this category is solely dependent on the nature of the injuries.</p> <p>1. This includes Section 18 or 20 assaults, Offences Against the Person Act 1861, i.e. unlawfully or maliciously wounding or causing grievous bodily harm with or without intent, up to and including homicide. Examples are: injury resulting in permanent disability or permanent loss of sensory function, fracture, deep cut or deep laceration and injury causing damage to an internal organ or the impairment of any bodily function. The IPCC Statutory Guidance provides directions on the threshold of injury for Mandatory Referral.</p> <p>2. This includes Section 47 assaults, Offences Against the Person Act 1861. Examples are: loss or breaking of a tooth or teeth, temporary loss of sensory functions (which may include loss of consciousness), extensive or multiple bruising, displaced broken nose, minor fractures, minor (but not merely superficial) cuts of a sort probably requiring medical attention (e.g. stitches) and psychiatric injury that is more than fear, distress or panic. The IPCC Statutory Guidance provides directions on the threshold of injury for Mandatory Referral.</p>	Use of Force and Abuse of Authority
B	Sexual Assault	This concerns rape, attempted rape and any assault surrounding or involving circumstances of indecency. This category relates to sexual matters only. IPCC Statutory Guidance provides directions on the threshold for Mandatory Referral.	Use of Force and Abuse of Authority
C	Other Assault	This concerns use of more force than is reasonable. Inclusion is solely dependent on the nature of the injuries. This includes common assault contrary to Section 39, Criminal Justice Act 1988, which deals with assault and battery. Injuries include: grazes, scratches, abrasions, minor bruising, swellings, reddening of the skin, superficial cuts, and a "black eye". This category includes minor injuries resulting from the use of handcuffs. It also includes minor assaults resulting in no injury, such as pushing. A person serving with the police must never knowingly use more force than is reasonable, nor should they abuse their authority. This category includes any unjustified use of force or personal violence (but not technical assaults arising from unlawful arrest) and any incident involving police dogs or horses where the incident is attributable to the conduct of the member in control, unless the severity of injury puts them into Category A above.	Use of Force and Abuse of Authority
D	Oppressive Conduct or Harassment	This includes unjustified interference, questioning or surveillance; for example, an improper request for driving documents. It may include allegations concerning unjustifiable examples of routine traffic checks, persistent police presence or persistently following. Allegations here do not relate to police detention or police interviews under PACE.	Fairness and Impartiality. Politeness and Intolerance. Use of Force and Abuse of Authority
E	Unlawful/ Unnecessary Arrest or Detention	This concerns unlawful/unnecessary arrest or detention with regard to Section 24 PACE (power of arrest without warrant) as amended by Section 110 of the Serious and Organised Crime and Police Act in respect of proportionality, reasonableness and necessity. "Unlawful" should be interpreted as the officer having insufficient powers to make an arrest or to detain in the circumstances. "Unnecessary" should be interpreted as meaning that the criteria laid down in Section 24 PACE have not been met.	Fairness and Impartiality. Use of Force and Abuse of Authority

Definitions of Allegation Categories and Link to the Codes of Conduct (continued)

Category	Allegation	Definition	Code of Conduct
F	Discriminatory Behaviour	<p>This includes any allegation which involves an element of discrimination or is perceived to do so at any stage. Discrimination may be committed on the grounds of ethnicity, gender, sexual orientation, faith/religion, disability or age. Discrimination should be thought of in terms of treating people differently through prejudice or unfair treatment of one person or group.</p> <p>If there are associated allegations (e.g. incivility or assault) then these should be recorded separately. In addition, discriminatory behaviour may be identified by anyone receiving, recording or investigating a complaint.</p>	Fairness and Impartiality. Use of Force and Abuse of Authority
G	Irregularity in Relation to Evidence/ Perjury	<p>This includes perjury or allegations of falsehood; for example, allegations that an officer made a false statement, or induced witnesses to give evidence falsely. Allegations may include taking evidence from witnesses but should not relate to breaches of PACE Codes of Practice.</p>	Honesty and Integrity. Performance of Duties
H	Corruption or Malpractice	<p>This includes allegations of corruption or malpractice. Corruption is the abuse of a role or position held, for personal gain or gain for others. This ranges from serious corruption (e.g. any attempt to pervert the course of justice; theft; criminal damage) to the less serious (e.g. misuse of warrant card).</p>	Honesty and Integrity
J	Mishandling of Property	<p>This includes all allegations relating to the mishandling of property. Reasonable care must be exercised in order to prevent loss or damage to property (excluding an officer's own personal property but including police property). A breach of this category includes the loss of property including money; unreasonable retention of property; damage to property in police custody; failure to account for money or property; and improper disposal of property, but excludes those from Breach of Code B PACE (Category L) and property record-keeping in Code C PACE (Category M).</p>	Honesty and Integrity. Performance of Duties. Lawful Orders
K	Breach of Code A PACE on Stop and Search	<p>This includes unjustified use of the relevant power, particularly where reasonable suspicion cannot be supported, and failure to act appropriately before or during a search, or to make the necessary record where practicable. Similar allegations from non-PACE Stops and Searches should also be recorded in this category (e.g. Section 44 Terrorism Act 2000, and Section 60 Criminal Justice and Public Order Act 1994). If there are associated allegations (e.g. incivility or assault) then these should be recorded separately.</p>	Performance of Duties. Lawful Orders
L	Breach of Code B PACE on Searching of Premises and Seizure of Property	<p>This includes unauthorised entry on search; failure to provide information to the occupier; an improper or excessive search; failure to record searches properly; not securing premises where necessary; and breaches of rules on seizure or retention. This will include property seized and retained under this power.</p>	Performance of Duties. Lawful Orders
M	Breach of Code C PACE on Detention, Treatment and Questioning	<p>This includes failure to inform detained persons of their rights and entitlements; unjustified obstruction of access to legal advice; holding persons incommunicado; not providing necessary support/advice to young/vulnerable detained persons; failure to maintain proper custody/property records; not providing mandatory physical conditions whenever practicable; not carrying out searches on detained persons in accordance with the code; conducting review of detention improperly or at inappropriate intervals; failure to caution or charge when required; interviewing oppressively or in inappropriate circumstances; not making proper records of interviews nor allowing them to be checked by suspects where practicable; and not providing interpreters where necessary.</p>	Performance of Duties. Lawful Orders

Definitions of Allegation Categories and Link to the Codes of Conduct (continued)

Category	Allegation	Definition	Code of Conduct
N	Breach of Code D PACE on Identification Procedures	This includes failure to provide suspects with information about identification procedures or to offer them a choice between procedures where appropriate; not conducting or recording identification procedures properly; not obtaining necessary consent to the taking of fingerprints, photographs or body samples; and not providing suspects with the opportunity to witness destruction of fingerprints or photographs where appropriate.	Performance of Duties. Lawful Orders
P	Breach of Code E PACE on Tape Recording	This includes failure to tape record (without good reason); failure to handle tapes openly and in front of the suspect or to maintain adequate tape security; and not making a proper record of objections, complaints, breaks etc.	Performance of Duties. Lawful Orders
Q	Lack of Fairness and Impartiality	An example of this would be a failure to treat all parties equally where there are allegations and counter-allegations. This category should not include allegations arising from any breach of PACE (Categories K to P and R) or those related to <i>Discriminatory Behaviour</i> .	Fairness and Impartiality
R	Unspecified breaches of PACE which cannot be allocated to a specific code	We would expect this category to be used very rarely. It should not be used in relation to multiple allegations of breaches of PACE. See guidance for advice on recording of multiple allegations. This category may be initially used where unspecific allegations are made but should be revisited as the case is investigated and specific issues are identified.	Performance of Duties. Lawful Orders
S	Other Neglect or Failure in Duty	This includes allegations with regard to a lack of conscientiousness and diligence concerning the performance of duties. This may include failure to record or investigate matters and keep interested parties informed. It includes failure to comply with orders, instructions or force policy.	Performance of Duties. Lawful Orders
T	Other Irregularity in Procedure	This includes other procedural irregularities not falling within Category S; for example, misleading a member of the public in order to achieve a course of action.	Performance of Duties. Lawful Orders
U	Incivility, Impoliteness and Intolerance	This includes allegations of abusive, offensive or rude language or behaviour. It does not include harassment (see Category D). If there are associated allegations (e.g. <i>Discriminatory Behaviour</i>) then these should be recorded separately.	Politeness and Intolerance
V	Traffic Irregularity	This includes allegations only about the driving or use of vehicles in connection with police business. It does NOT relate to officers speaking to members of the public in relation to traffic offences.	Lawful Orders. General Conduct
W	Other	This includes any allegations which do not fall into any of the other categories. This category should not be used as a "catch all" but should be revisited as the case is investigated and specific issues are identified.	All or Any
X	Improper Access and/or Disclosure of Information	This concerns allegations relating to improper disclosure or use of information held for police purposes. This includes misuse of police computer systems; accessing information for personal reasons; requests for information made by family or friends; approaches by private investigators; and unauthorised disclosure to the media.	Performance of Duties. Lawful Orders. Confidentiality
Y	Other Sexual Conduct	This includes allegations not amounting to assault and including sexual harassment or soliciting of prostitutes. This includes allegations of paedophilia.	Use of Force and Abuse of Authority. General Conduct

7

Definitions of Allegation Categories and Link to Standards of Professional Behaviour

Category B: Sexual Assault

Category C: Other Assault

Category D: Oppression

Category E: Unlawful/Unnecessary Use of Force or Harassment

Category G: Irregularity in Detention

Category H: Corruption or Bribery

Category I: Mishandling of Property

Category J: Breach of Code A PACE on Searching of Premises and Seizure of Property

Category K: Breach of Code B PACE on Detention, Treatment and Questioning

Category L: Breach of Code C PACE on Identification Procedures

Category M: Breach of Code D PACE on Tape Recording

Category N: Breach of Code E PACE on Tape Recording

Category P: Breach of Code E PACE on Tape Recording

Category Q: Lack of Fairness and Impartiality

Category R: Unspecified breaches of PACE which cannot be allocated to a specific code

Category S: Other Neglect or Failure in Duty

Category T: Other Irregularity in Procedure

Category U: Incivility, Impoliteness and Intolerance

Category V: Traffic Irregularity

Category W: Other

Category X: Improper Access and/or Disclosure of Information

Category Y: Other Sexual Conduct

Definitions of Allegation Categories and Link to Standards of Professional Behaviour

Category	Allegation	Definition	Standards of Professional Behaviour
A	Serious Non-sexual Assault	<p>Inclusion in this category is solely dependent on the nature of the injuries.</p> <p>1. This includes Section 18 or 20 assaults, Offences Against the Person Act 1861, i.e. unlawfully or maliciously wounding or causing grievous bodily harm with or without intent, up to and including homicide. Examples are: injury resulting in permanent disability or permanent loss of sensory function, fracture, deep cut or deep laceration and injury causing damage to an internal organ or the impairment of any bodily function. The IPCC Statutory Guidance provides directions on the threshold of injury for Mandatory Referral.</p> <p>2. This includes Section 47 assaults, Offences Against the Person Act 1861. Examples are: loss or breaking of a tooth or teeth, temporary loss of sensory functions (which may include loss of consciousness), extensive or multiple bruising, displaced broken nose, minor fractures, minor (but not merely superficial) cuts of a sort probably requiring medical attention (e.g. stitches) and psychiatric injury that is more than fear, distress or panic. The IPCC Statutory Guidance provides directions on the threshold of injury for Mandatory Referral.</p>	Use of Force
B	Sexual Assault	<p>This concerns rape, attempted rape and any assault surrounding or involving circumstances of indecency. This category relates to sexual matters only. IPCC Statutory Guidance provides directions on the thresholds for Mandatory Referral.</p>	Use of Force
C	Other Assault	<p>This concerns use of more force than is reasonable. Inclusion is solely dependent on the nature of the injuries. This includes common assault contrary to Section 39, Criminal Justice Act 1988, which deals with assault and battery. Injuries include: grazes, scratches, abrasions, minor bruising, swellings, reddening of the skin, superficial cuts, and a “black eye”. This category includes minor injuries resulting from the use of handcuffs. It also includes minor assaults resulting in no injury, such as pushing. A person serving with the police must never knowingly use more force than is reasonable, nor should they abuse their authority. This category includes any unjustified use of force or personal violence (but not technical assaults arising from unlawful arrest) and any incident involving police dogs or horses where the incident is attributable to the conduct of the member in control, unless the severity of injury puts them into Category A above.</p>	Use of Force
D	Oppressive Conduct or Harassment	<p>This includes unjustified interference, questioning or surveillance; for example, an improper request for driving documents. It may include allegations concerning unjustifiable examples of routine traffic checks, persistent police presence or persistently following. Allegations here do not relate to police detention or police interviews under PACE.</p>	Authority, Respect and Courtesy. Equality and Diversity. Use of Force
E	Unlawful/ Unnecessary Arrest or Detention	<p>This concerns unlawful/unnecessary arrest or detention with regard to Section 24 PACE (power of arrest without warrant) as amended by Section 110 of the Serious and Organised Crime and Police Act in respect of proportionality, reasonableness and necessity. “Unlawful” should be interpreted as the officer having insufficient powers to make an arrest or to detain in the circumstances. “Unnecessary” should be interpreted as meaning that the criteria laid down in Section 24 PACE have not been met.</p>	Authority, Respect and Courtesy. Equality and Diversity. Use of Force

Definitions of Allegation Categories and Link to Standards of Professional Behaviour (continued)

Category	Allegation	Definition	Standards of Professional Behaviour
F	Discriminatory Behaviour	<p>This includes any allegation which involves an element of discrimination or is perceived to do so at any stage. Discrimination may be committed on the grounds of ethnicity, gender, sexual orientation, faith/religion, disability or age. Discrimination should be thought of in terms of treating people differently through prejudice or unfair treatment of one person or group.</p> <p>If there are associated allegations (e.g. incivility or assault) then these should be recorded separately. In addition, discriminatory behaviour may be identified by anyone receiving, recording or investigating a complaint.</p>	Equality and Diversity
G	Irregularity in Relation to Evidence/Perjury	<p>This includes perjury or allegations of falsehood; for example, allegations that an officer made a false statement, or induced witnesses to give evidence falsely. Allegations may include taking evidence from witnesses but should not relate to breaches of PACE Codes of Practice.</p>	Honesty and Integrity
H	Corruption or Malpractice	<p>This includes allegations of corruption or malpractice. Corruption is the abuse of a role or position held, for personal gain or gain for others. This ranges from serious corruption (e.g. any attempt to pervert the course of justice; theft; criminal damage) to the less serious (e.g. misuse of warrant card).</p>	Honesty and Integrity
J	Mishandling of Property	<p>This includes all allegations relating to the mishandling of property. Reasonable care must be exercised in order to prevent loss or damage to property (excluding an officer's own personal property but including police property). A breach of this category includes the loss of property including money; unreasonable retention of property; damage to property in police custody; failure to account for money or property; and improper disposal of property, but excludes those from Breach of Code B PACE (Category L) and property record-keeping in Code C PACE (Category M).</p>	Honesty and Integrity
K	Breach of Code A PACE on Stop and Search	<p>This includes unjustified use of the relevant power, particularly where reasonable suspicion cannot be supported, and failure to act appropriately before or during a search, or to make the necessary record where practicable. Similar allegations from non-PAVE Stops and Searches should also be recorded in this category (e.g. Section 44 Terrorism Act 2000, and Section 60 Criminal Justice and Public Order Act 1994). If there are associated allegations (e.g. incivility or assault) then these should be recorded separately.</p>	Orders and Instructions. Duties and Responsibilities
L	Breach of Code B PACE on Searching of Premises and Seizure of Property	<p>This includes unauthorised entry on search; failure to provide information to the occupier; an improper or excessive search; failure to record searches properly; not securing premises where necessary; and breaches of rules on seizure or retention. This will include property seized and retained under this power.</p>	Orders and Instructions. Duties and Responsibilities
M	Breach of Code C PACE on Detention, Treatment and Questioning	<p>This includes failure to inform detained persons of their rights and entitlements; unjustified obstruction of access to legal advice; holding persons incommunicado; not providing necessary support/advice to young/vulnerable detained persons; failure to maintain proper custody/property records; not providing mandatory physical conditions whenever practicable; not carrying out searches on detained persons in accordance with the code; conducting review of detention improperly or at inappropriate intervals; failure to caution or charge when required; interviewing oppressively or in inappropriate circumstances; not making proper records of interviews nor allowing them to be checked by suspects where practicable; and not providing interpreters where necessary.</p>	Orders and Instructions. Duties and Responsibilities

Definitions of Allegation Categories and Link to Standards of Professional Behaviour (continued)

Category	Allegation	Definition	Standards of Professional Behaviour
N	Breach of Code D PACE on Identification Procedures	This includes failure to provide suspects with information about identification procedures or to offer them a choice between procedures where appropriate; not conducting or recording identification procedures properly; not obtaining necessary consent to the taking of fingerprints, photographs or body samples; and not providing suspects with the opportunity to witness destruction of fingerprints or photographs where appropriate.	Orders and Instructions. Duties and Responsibilities
P	Breach of Code E PACE on Tape Recording	This includes failure to tape record (without good reason); failure to handle tapes openly and in front of the suspect or to maintain adequate tape security; and not making a proper record of objections, complaints, breaks etc.	Orders and Instructions. Duties and Responsibilities
Q	Lack of Fairness and Impartiality	An example of this would be a failure to treat all parties equally where there are allegations and counter-allegations. This category should not include allegations arising from any breach of PACE (Categories K to P and R) or those related to <i>Discriminatory Behaviour</i> .	Equality and Diversity
R	Unspecified breaches of PACE which cannot be allocated to a specific code	We would expect this category to be used very rarely. It should not be used in relation to multiple allegations of breaches of PACE. See guidance for advice on recording of multiple allegations. This category may be initially used where unspecific allegations are made but should be revisited as the case is investigated and specific issues are identified.	Orders and Instructions. Duties and Responsibilities
S	Other Neglect or Failure in Duty	This includes allegations with regard to a lack of conscientiousness and diligence concerning the performance of duties. This may include failure to record or investigate matters and keep interested parties informed. It includes failure to comply with orders, instructions or force policy.	Orders and Instructions. Duties and Responsibilities. Fitness for Duty
T	Other Irregularity in Procedure	This includes other procedural irregularities not falling within Category S; for example, misleading a member of the public in order to achieve a course of action.	Orders and Instructions. Duties and Responsibilities
U	Incivility, Impoliteness and Intolerance	This includes allegations of abusive, offensive or rude language or behaviour. It does not include harassment (see Category D). If there are associated allegations (e.g. <i>Discriminatory Behaviour</i>) then these should be recorded separately.	Authority, Respect and Courtesy
V	Traffic Irregularity	This includes allegations only about the driving or use of vehicles in connection with police business. It does NOT relate to officers speaking to members of the public in relation to traffic offences.	Orders and Instructions. Discreditable Conduct
W	Other	This includes any allegations which do not fall into any of the other categories. This category should not be used as a "catch all" but should be revisited as the case is investigated and specific issues are identified.	All or Any
X	Improper Access and/or Disclosure of Information	This concerns allegations relating to improper disclosure or use of information held for police purposes. This includes misuse of police computer systems; accessing information for personal reasons; requests for information made by family or friends; approaches by private investigators; and unauthorised disclosure to the media.	Orders and Instructions. Confidentiality
Y	Other Sexual Conduct	This includes allegations not amounting to assault and including sexual harassment or soliciting of prostitutes. This includes allegations of paedophilia.	Discreditable Conduct

8

Recording Conduct Matters

Category B: Sexual Assault

Category C: Other Sexual Assault

Category D: Oppressive Conduct or Harassment

Category E: Unlawful/Unnecessary Arrest or Detention

Category G: Irregularity in Relation to Evidence/Perjury

Category H: Corruption or Malpractice

Category J: Mishandling of Property

Category K: Breach of Code A PACE on Stop and Search

Category L: Breach of Code B PACE on Searching of Premises and Seizure of Property

Category M: Breach of Code C PACE on Detention, Treatment and Questioning

Category N: Breach of Code D PACE on Identification Procedures

Category P: Breach of Code E PACE on Tape Recording

Category Q: Lack of Fairness and Impartiality

Category R: Unspecified breaches of PACE which cannot be allocated to a specific code

Category S: Other Neglect or Failure in Duty

Category T: Other Irregularity in Procedure

Category U: Incivility, Impoliteness and Intolerance

Category V: Traffic Irregularity

Category W: Other

Category X: Improper Access and/or Disclosure of Information

Category Y: Other Sexual Conduct

A Conduct Matter can be recorded even when no public complaint has been made but it is felt by the appropriate authority that the matter should be investigated. Conduct Matters should be formally recorded as soon as practicable, taking into account the covert nature of some investigations. The following definitions and measures are not prescriptive; they are an initial step in building a picture of police activity in response to matters concerning police conduct. The aim is to achieve consistency of recording across forces.

Definitions in respect of Conduct Matters

Conduct Case: represents a single investigation into one or more matters. It relates to any matter which may or may not have been the subject of a complaint but in the case of which there is an indication (whether from the circumstances or otherwise) that a person serving with the police may have a) committed a criminal offence or b) behaved in a manner which would justify the bringing of disciplinary proceedings. A conduct case may include one or more of the above matters.

Conduct Matter: concerns the conduct of a person serving with the police. It relates to any matter which may or may not have been the subject of a complaint but in the case of which there is an indication (whether from the circumstances or otherwise) that a person serving with the police may have a) committed a criminal offence or b) behaved in a manner which would justify the bringing of disciplinary proceedings.

Date Conduct Case Recorded and Investigator Appointed: is the date when the conduct case is recorded on the PSD database and an investigating officer is appointed. See paragraph 11 of Schedule 3 of the Police Reform Act 2002, which states that where a Conduct Matter comes to the attention of the appropriate authority it should be recorded.

Date Conduct Matter Recorded: is the date when a Conduct Matter is recorded on the PSD database. See paragraph 11 of Schedule 3 of the Police Reform Act 2002, which states that where a Conduct Matter comes to the attention of the appropriate authority it should be recorded.

Date Conduct Investigation Completed: is when the case is submitted to the CPS and/or to the head of the PSD for a final decision to be made in respect of the case outcome.

Date Conduct Case Finalised: is the point at which all police action relating to the conduct case has been concluded.

Measuring Timeliness of Conduct Activity

Length of time to investigate a Conduct Matter: is the number of working days from the *Date Conduct Matter Recorded* to *Date Conduct Investigation Completed*. The “clock” stops *only* for sub judice reasons. It should stop on the date that an allegation is declared sub judice. The “clock” should start again when sub judice no longer applies.

Overall time from first receiving an allegation which is investigated to notifying an officer or staff member of result: is the number of working days from the *Date Conduct Matter Recorded* to the *Date Conduct Investigation Completed*. The “clock” stops *only* for sub judice reasons. It should stop on the date that a case is declared sub judice. The “clock” should start again when sub judice no longer applies.

9

Frequently Asked Questions

Category B: Sexual Assault

Category C: Other Assault

Category D: Oppressive Conduct or Harassment

Category E: Unlawful/Unnecessary Use of Force

Category G: Irregularity in Recording Evidence/Perjury

Category H: Corruption or Malpractice

Category J: Mishandling of Property

Category K: Breach of Code A PACE on Stop and Search

Category L: Breach of Code B PACE on Searching of Premises and Seizure of Property

Category M: Breach of Code C PACE on Detention, Treatment and Questioning

Category N: Breach of Code D PACE on Identification Procedures

Category P: Breach of Code E PACE on Tape Recording

Category Q: Lack of Fairness and Impartiality

Category R: Unspecified breaches of PACE which cannot be allocated to a specific code

Category S: Other Neglect or Failure in Duty

Category T: Other Irregularity in Procedure

Category U: Incivility, Impoliteness and Intolerance

Category V: Traffic Irregularity

Category W: Other

Category X: Improper Access and/or Disclosure of Information

Category Y: Other Sexual Conduct

Sub Judice

Q. When does sub judice start and end?

A. Complaints received must be recorded in accordance with the timescales laid down within the guidance. This is irrespective of whether there are any outstanding criminal investigations or proceedings linked to the complaint. Sub judice ceases when the defendant has been convicted or acquitted and does not include any period of time where the case is adjourned for sentencing. Even where the sub judice rule applies there may be an opportunity to gather evidence and undertake part of the investigation. For further guidance in relation to sub judice see Section 66 PACE and Home Office Circular 8/2007 Para 3.43.

Investigating Officer absent from Force

Q. Does the clock stop?

A. No. The absence of an investigating officer from the force for any reason is not a ground for suspending the investigation.

Complainant not available

Q. Does the clock stop?

A. No. The non-availability of a cooperative complainant is not a ground for suspending the investigation. The same applies to an uncooperative complainant; however, forces may wish to consider applying for a dispensation/discontinuance. See below.

Officers and Staff on Sick Leave

Q. Does the clock stop?

A. No. Absence owing to sickness of any personnel who are the subject of a complaint will not affect the recording or timing of the investigation.

Officers and Staff on Maternity/Paternity Leave

Q. Does the clock stop?

A. No. Absence owing to maternity/paternity leave of any personnel who are the subject of a complaint will not affect the recording or timing of the investigation. Welfare considerations are a separate issue. The mode and nature of the investigation and disposal will depend on the circumstances of the case. In cases where the officer or

member of staff resigns prior to returning to duty, see “Retired Personnel” below.

Retired Personnel

Q. Do we record complaints against retired personnel?

A. Yes, if the complaint related to their service with the police. The mode and nature of the investigation and disposal will depend on the circumstances of the case.

Officers and Staff on Secondment

Q. Does the clock stop?

A. No. Absence owing to secondment, whether overseas or otherwise, of any personnel who are the subject of a complaint will not affect the recording or timing of the investigation. The mode and nature of the investigation and disposal will depend on the circumstances of the case.

Officers and Staff on Career Break

Q. Does the clock stop?

A. No. Absence owing to career break of any personnel who are the subject of a complaint will not affect the recording or timing of the investigation. The mode and nature of the investigation and disposal will depend on the circumstances of the case.

Recording

Q. Does recording in a holding register such as “inbox” or “miscellaneous” amount to “recording” under part 2 of the Police Reform Act 2002?

A. No. Recording of the case and allegation(s) should be within the complaints register. (Schedule 3 Part 1 Paragraph 2(6))

De-recording/Deleting

The following guidance reflects the current software packages. It is acknowledged that these procedures may have an impact on statistical analysis. Future work will be for system databases to be amended to reflect a de-recorded result which will enable it to be excluded from statistical analysis.

De-recording/Deleting a Subject

Q. I entered a subject in error. What can I do to rectify this?

A. It is preferable to de-record rather than delete; however, it is permissible to delete a subject in such circumstances, so that it is not linked to the case and it does not show on the officer's complaints and discipline history. For audit purposes a record should be made of the action and rationale.

De-recording/Deleting an Allegation

Q. I entered an allegation in error. What can I do to rectify this?

A. It is preferable to de-record rather than delete; however, it is permissible to delete an allegation in such circumstances, so that it is not linked to the case. For audit purposes a record should be made of the action and rationale. Forces may need at least one allegation in order to create a case result in accordance with force practice.

De-recording/Deleting a Case

Q. I entered a case in error. What can I do to rectify this?

A. It is *not* permissible to de-record/delete a case. The case should remain recorded but should be resulted as stated above in "*De-recording/Deleting an Allegation*". It is anticipated that such circumstances will be rare. For audit purposes a record should be made of the action and rationale.

Repetitious Complaints

Q. Do I have to record what I consider to be a repetitious complaint under a separate number?

A. Yes, then consider applying for a dispensation. For further information please refer to the IPCC Statutory Guidance Para 5.8.2 Dispensations.

Vexatious Complaints

Q. Do I have to record what I consider to be a vexatious complaint under a separate number?

A. Yes, then consider applying for a dispensation. For further information please refer to the IPCC Statutory Guidance Para 5.8.2 Dispensations.

Vexatious Complainants

Q. Do I have to record a complaint from a person whom I consider to be a vexatious complainant?

A. Yes, the concept of a vexatious complainant does not exist within the legislation or guidance. Each complaint should be treated on its own merits.

Historical Complaints

Q. Do I need to record a complaint if it is 13 months old?

A. Yes. However, if more than 12 months have elapsed between the incident giving rise to the complaint and the making of the complaint, and either there is no good reason for the delay or injustice would be caused by investigating the complaint, forces may consider applying for a dispensation. For further information please refer to the IPCC Statutory Guidance Para 5.8.2 Dispensations and Regulation 3(2), The Police (Complaints and Misconduct) Regulations 2004

Dispensation/Discontinuance (granted by IPCC)

Q. What do these terms mean and what is the difference?

A. Both relate to the termination of the need to investigate or further investigate allegation(s).

Dispensation: Can only be applied for where the investigation has not commenced (this does not include the initial evidence gathering). In respect of dispensation an application to the IPCC can only be applied for on one occasion. For further information refer to the IPCC Statutory Guidance 5.8.2 and Regulation 3(2), The Police (Complaints and Misconduct) Regulations 2004

Discontinuance: Where the investigation has commenced and it is no longer practical to continue with or conclude the investigation. For further information refer to the IPCC Statutory Guidance 5.8.3 and Regulation 7, The Police (Complaints and Misconduct) Regulations 2004.

Dispensation (granted by IPCC)

Q. When can I apply to the IPCC for a dispensation?

A. A force may apply to the IPCC for a dispensation where it considers:

- more than 12 months have elapsed between the incident giving rise to the complaint and the making of

the complaint, and there is no good reason for the delay or injustice would be caused;

- the matter is already the subject of a complaint;
- the complaint is anonymous;
- the complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints;
- the complaint is repetitious;
- it is not reasonably practicable to complete the investigation of the complaint.

For further information refer to the IPCC Statutory Guidance 5.8.2 and Regulation 3, The Police (Complaints and Misconduct) Regulations 2004.

Discontinuance (granted by IPCC)

Q. When can I apply to the IPCC to discontinue an investigation?

- A.** A force may apply to the IPCC to discontinue an investigation when:
- the complainant refuses to cooperate to the extent that it is not reasonably practicable to continue the investigation;
 - the complainant has agreed to Local Resolution;
 - a complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints or Conduct Matters;
 - a complaint is repetitious;
 - it is otherwise not reasonably practicable to proceed with the investigation.

For further information refer to the IPCC Statutory Guidance 5.8.3 and Regulation 7, The Police (Complaints and Misconduct) Regulations 2004.

Dispensation/Discontinuance (by Force)

Q. When can the force dispense with the requirement to further investigate a complaint?

- A.** The appropriate authority can dispense with the requirement to further investigate a complaint in the following circumstances: when the matter has been sub judice, criminal proceedings have concluded and despite reasonable efforts the complainant has not responded to requests to cooperate in resuming the investigation. However, following a matter being dispensed with, forces may still go on to record a Conduct Matter. This also applies

to withdrawn complaints in order that forces may still investigate behaviour that appears to fall below the expected standard. For further information refer to the IPCC Statutory Guidance 5.8.1 and Regulation 17, The Police (Complaints and Misconduct) Regulations 2004.

File to IPCC

Q. On what occasions should I record when I have sent a file to the IPCC?

- A.** At the conclusion of a supervised or managed investigation or when the IPCC takes responsibility in the form of an independent investigation.

120 Days

Q. Is the 120-day performance target an IPCC measure?

- A.** No, the IPCC does not have a performance measure for completing investigations but expects them to be completed in a timely manner. We are not aware of any other external statutory measures.

Withdrawal of a Regulation 9/15 Notice

Q. Do I need to formally withdraw the Regulation 9/15 notice when the case is closed?

- A.** In relation to any result other than a substantiated allegation the answer is yes. However, Regulation 9/15 notices should not be withdrawn during the appeal period or during the time when an appeal is being considered by the IPCC.

Date Conduct Case Finalised

Q. When is a case finalised if the officer or staff member is away from the home force (e.g. secondment, sickness, career break etc.) and a sanction is required to be served?

- A.** The case can be finalised when the officer or staff member has been informed that they will be served with the sanction upon their return.

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