

Welcome to our monthly newsletter which provides updates about the work of the Independent Office for Police Conduct (IOPC). The newsletter is for complaint handlers in forces and local policing bodies (LPBs).

## Corporate news

### Officer sentenced for manslaughter of Dalian Atkinson

Following our investigation, a West Mercia Police officer was convicted of unlawful act manslaughter for the death of Dalian Atkinson and sentenced to eight years' imprisonment.

A jury had found PC Benjamin Monk guilty of killing Mr Atkinson on 15 August 2016, at the end of a seven-week trial at Birmingham Crown Court.

IOPC regional director, Derrick Campbell, said:

"Dalian Atkinson was a much-loved family member, friend and well-respected footballer. Nothing can restore the pain and loss those who loved and knew him will carry with them for life. Our thoughts remain with them at this time.

"PC Benjamin Monk has been held accountable for his actions that night, which tragically ended the life of Dalian Atkinson prematurely.

"This has been an extremely difficult and distressing case for everyone involved.

"The IOPC carried out a thorough and detailed independent investigation which covered complex uses of force and medical issues. We looked at the nature and level of force used, and whether it was in line with national policies and guidelines. We put forward the evidence we found to the Crown Prosecution Service.

"There is no doubt police do difficult jobs in difficult circumstances. They are given extraordinary powers to use force, and the way they use force must be reasonable and proportionate.

"The jury's decision highlights the importance of independent scrutiny when someone dies following police contact. It is the first time in over thirty years in this country that a police officer has been convicted for manslaughter in the course of their duties."

Read the [full media release](#).

### National recommendations following Fishmongers' Hall terror attack implemented by police forces

[National recommendations to improve police management of terrorism offenders](#) are being implemented following two of our investigations, carried out after the terrorist attack by Usman Khan at Fishmongers' Hall.

Training for officers on managing different types of terrorism offenders and the risks they may pose, has been developed and is expected to start soon. This was just one of several national learning recommendations we made early in our investigations. Our recommendations were accepted by the National Police Chiefs' Council (NPCC) in March 2021.

We began our investigations after Usman Khan, from Stoke-on-Trent, attacked and killed Jack Merritt, and Saskia Jones at a prisoner rehabilitation course at Fishmongers' Hall in London on 29 November 2019. The inquest into Jack and Saskia's deaths concluded they were unlawfully killed.

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## Corporate news cont'd

### Nine national recommendations made about officer use of WhatsApp messaging system

We made nine recommendations to all police forces in England and Wales to ensure a consistent approach to the use of WhatsApp for work purposes by police officers following our review.

We concluded a consistent approach to using instant messaging platforms was necessary as each force used them differently. Our review analysed information provided by 29 police forces, including the three largest in the country the Metropolitan Police Service, West Midlands Police and Greater Manchester Police, plus data supplied by three law enforcement bodies.

We identified an appetite from police forces for guidance in this area, specifically around identifying and managing the associated risks when officers use WhatsApp. Potential risks include sharing information on an incorrect group chat and disclosing details to the wrong people, which can be compounded when officers' communicate with large community groups and where the mobile phone is used for both personal and professional purposes.

### Latest news

[Investigation into use of Taser on man at Greater Manchester petrol station concludes](#)

[Investigation of racial profiling complaint against Cambridgeshire police](#)

[Investigation into fatal police shooting in Milton Keynes](#)

[Met police officer faces trial for sexual assault](#)

[Hertfordshire police officer faces trial on assault charge](#)

[Investigation into death of man following police restraint in Cardiff](#)

Keep up to date on our investigations and other work to increase public confidence in the police complaints system. You can find our [latest IOPC news](#) on our website.

## Suspended complaint challenges

Where the investigation or other handling of a complaint has been suspended because the force decided that to continue may prejudice criminal proceedings, the complainant may choose to challenge that decision. The complainant should be informed of their right to ask the IOPC to consider whether the investigation or other handling continue.

In order to assess the application to challenge the force's decision, the IOPC needs to know what prejudice *would* (not 'may' or 'could') be caused to the criminal proceedings if the matter continues. Therefore, when making a decision on whether to suspend, the force should clearly document:

- the rationale that informed the decision and provide this in writing to the complainant
- that each allegation has been considered separately, and
- whether it has sought advice from the Crown Prosecution Service or its legal department. The expectation is that this should have already done before making the decision.

Further guidance is available in Chapter 15 of the [IOPC's Statutory Guidance](#).

## Death or serious injury clarification - referrals where there is no body

We recently clarified the position on death and serious injury (DSI) cases where no body was found.

It is the responsibility of the appropriate authority to refer DSI matters to the IOPC.

A DSI matter is defined as any circumstances (unless the circumstances are or have been the subject of a complaint or amount to a conduct matter) in, or as a result of which, a person has died or sustained serious injury and:

- at the time of death or serious injury the person had been arrested by a person serving with the police and had not been released or was otherwise detained in the custody of a person serving with the police; or
- at or before the time of death or serious injury the person had contact of any kind – whether direct or indirect – with a person serving with the police who was acting in the execution of their duties and there is an indication that the contact may have caused – whether directly or indirectly – or contributed to the death or serious injury. (*Section 12, Police Reform Act 2002*)

However, what is not clear in this definition is whether a body is needed as evidence to determine if a matter meets the DSI criteria for referral to the IOPC.

The definition of a DSI does not stipulate that a body has to be found for the criteria to be met – all that is required is direct evidence that the person has died.

This means that if a death can be proved by circumstantial evidence, in other words if there is evidence of a fact that can lead to a conclusion that a person has died, then that would be sufficient to infer that a death has occurred, and referral to the IOPC if the DSI criteria is met.

While there is a possibility the person could still be alive, it is better to refer these types of cases so they can be investigated in a timely manner, than not refer them which can impact public confidence in the police complaints system.

### IOPC appeals and reviews timescales

We are currently experiencing delays with the allocation of appeals and reviews. However, we are increasing the resources available to focus on appeals and reviews and hope to see the impact of this soon. In the meantime thank you for your patience.

### Working with forces

We are driving improvements in a force's handling of discrimination complaints and all referral types by working with them and several IOPC teams.

We held meetings to discuss observations and learning identified from their handling of an investigation appeal and a number of referrals. This innovative engagement and targeted approach provided a valuable forum to make an impact and effect real change.

We used a genuine complaint and appeal to help demonstrate the types of common issues we see in the handling of discrimination complaints. In this case, the IOPC made the same decision on the outcome of the discrimination complaint as the investigating officer, but disagreed with the handling of the complaint. This was around the dismissive way the complaint handler dealt with the complainant's account of their contact with the police and its impact.

## Working with forces cont'd

We were able to explain how a different and more considerate approach, together with better analysis of the evidence, could result in a more empathetic response to the complaint.

We explored referrals and re-referral considerations, referral of conduct identified during the course of an investigation, and some scenarios where we need to be informed of significant case developments (as opposed to becoming aware via the media). The IOPC was able to demonstrate the impact on real-life cases, highlighting the importance of the force being continuously alive to relevant considerations and making appropriate decisions about referrals.

## Recent information

### Race discrimination thematic – seeking information from forces

On 26 and 27 May 2021, Regional Director for London and Strategic Lead on Discrimination, Sal Naseem, wrote to all chief constables, heads of professional standards departments and police and crime commissioners outlining how we are planning to undertake our thematic work on race discrimination and requesting your assistance.

In particular we are looking for examples where:

- there is confirmation that the complainant felt satisfied at the end of the complaint
- engagement methods or information gathering tools were used to allow the fullest understanding of a complainant's experiences, and the behaviours they identified as discriminatory
- the discrimination element of the complaint has been upheld and any learning/outcomes have been recommended

It is hoped these examples will provide insight into effective practices and may, in turn, inform the development of the IOPC Guidelines for handling allegations of discrimination, and other guidance we may develop as a result of this work - such as sharing useful practices more widely.

Thank you to those who have already replied. If you would still like to contribute, please email your examples/feedback to [oversight@policeconduct.gov.uk](mailto:oversight@policeconduct.gov.uk) by **14 July 2021** – the original deadline was extended to give you more time to provide us with your helpful examples.

### Update to Focus issue 9 on referrals

Focus 9 has been updated and is now available on [our website](#). Alongside existing content, you can find new guidance on:

- completing referral forms and providing supporting material
- chief constable complaints, conduct matters and DSIs
- referrals from Police and Crime Panels



## Common questions from forces and LPBs

**Q: At the conclusion of an independent investigation, what is the current position on whose responsibility is it to inform the subject of the outcome?**

The IOPC will share the final report and decision maker's opinion and/or summary document with all relevant service users, subject to the harm test. Our service users are broadly defined as complainants, families, witnesses and subjects. We will also correspond with all relevant service users once the investigation report is finalised. Further information on our service standards is available [here](#).

Email: [oversight@policeconduct.gov.uk](mailto:oversight@policeconduct.gov.uk)  
Tel: 01924 811699

If you have any questions, please get in touch with your Oversight Liaison or a member of the Oversight team.