

Core Indicator Guidance

Assessing IOPC Referrals



Core Indicator Guidance

Our 'core work'

This guidance has been written to assist IOPC staff responsible for assessing matters referred to the IOPC.¹

Below are the six core indicators that help IOPC staff to identify matters that constitute IOPC 'core work' - that is, cases with a sufficient level of seriousness and public interest that they require independent oversight by the IOPC. Other matters may still attract oversight by the IOPC if they fall into one of our current thematic areas.²

Public confidence

All the other considerations feed into public confidence. Where there is already evidence that the public are aware of an issue and damage to public confidence is being caused, or the potential damage to confidence is particularly severe, this should be given greater weight.

Life altering impact caused to a member of the public

Vulnerability of member of the public

Serious corruption

Seniority of officer

Discrimination

Other considerations: In addition to the indicators, decision makers are mindful of our responsibilities under the ECHR in respect of Articles 2 and 3* when assessing referred matters. They are also mindful of the College of Policing 'Guidance on outcomes in police misconduct proceedings' when assessing allegations of potential misconduct.

* If there is evidence that Article 2 or 3 may be engaged (i.e. that the actions of a police force or other body may have contributed to infringing anyone's right to life or right to freedom from torture and inhuman or degrading treatment), there is an obligation on the state to investigate such matters. Accordingly, it is likely that such matters will require IOPC oversight.

Core work cases

When assessing a referral, analysts should consider which of these indicators are present and the extent to which they relate to the matter under consideration. The more indicators present, the more likely that the referred matter will fall into our 'core work'. The analyst should consider the seriousness of the identified concerns in respect of each indicator present, based on the guidance below.

¹ Including matters 'called in' by the IOPC or matters treated by the IOPC as having been referred under the 'power of initiative'.

² Some areas of policing are particularly important to learn from. You can read more about our research and the investigations we do that help provide a unique insight into policing of these areas at:

<https://www.policeconduct.gov.uk/research-and-learning/key-areas-work>

The greater the level of seriousness, the greater likelihood the matter should be considered as core work.

Please note that although the presence of core indicators will increase the likelihood of an investigation being necessary, it does not *automatically* mean that a referred matter should be investigated independently.

Core thematic cases

As noted earlier, consideration should also be given to whether the referred matter relates to any of our current thematic areas. Note - some cases will be both 'core work' and one or more of our 'thematic' areas ('Core thematic' cases).

Seriousness

In assessing the degree of seriousness, the harm caused and the potential level of culpability of any officers involved should be considered. Officers' whose actions were intentional, planned, or targeted will be more culpable than those whose actions have had unintended consequences.

Harm

This can encompass anything from injury, to economic loss, to interference with the administration of justice. More information on harm and culpability is included in the College of Policing 'Misconduct outcomes guidance'.⁴

The core indicators

Public confidence

Concern may be indicated if community groups have taken, or intend to take, action as a result of an incident. Media coverage may assist in identifying potential impact on public confidence, although analysts should be mindful that media coverage *per se* does not necessarily equate to public concern.

Consideration should be given to any indication of alleged criminality or misconduct on the part of any officer, and whether the referred matter could discredit the police force concerned or policing as a whole.

Life altering impact caused to a member of the public

This is distinct from the 'serious injury' referral criteria, as it encompasses more than just physical injury and the impact should be significant enough to be 'life altering'. Where there is information that a life altering impact may have been caused as a result of police action or inaction, this should be considered. Such an impact could be a physical injury but could also include sexual abuse, financial loss, damage to health,

⁴ <https://www.college.police.uk/What-we-do/Ethics/integrity-and-transparency/Pages/Guidance-on-outcomes.aspx>

psychological distress, reputational harm, loss of liberty (for example, if a person has been wrongfully arrested or detained) or the infringement of a human right.

Vulnerability

Analysts should consider vulnerability on a case-by-case basis, considering to what extent the vulnerability of an individual may have exacerbated the impact of the incident they were involved in. Factors that could indicate particular vulnerability of an individual include:

- any protected characteristic (age, race etc)
- physical disability
- mental ill health or learning disability
- substance misuse
- social circumstances such as homelessness or bereavement
- cultural differences and the person's ability to communicate in English
- experience of crime, including harassment or domestic abuse

Serious corruption

Our Statutory Guidance defines serious corruption as:

- any conduct that could fall within the definition of the statutory offence of 'corruption or other improper exercise of police powers and privileges'
- perverting the course of justice or other conduct that is likely to seriously harm the administration of justice, in particular the criminal justice system
- payments or other benefits or favours received in connection with the performance of duties amounting to an offence for which the individual concerned, if convicted, would be likely to receive a sentence of more than six months
- abuse of position for a sexual purpose or for the purpose of pursuing an improper emotional relationship
- corrupt controller, handler or covert human intelligence source (CHIS) relationships
- provision of confidential information in return for payment or other benefits or favours where the conduct could lead to a possible prosecution for an offence under Section 170 of the *Data Protection Act 2018*, or a more serious offence
- extraction and supply of seized controlled drugs, firearms or other material

- any other abuse of position, or
- attempts, conspiracies, incitements, assistance or encouragement to do any of the above

If there is evidence of any of the above within a referral then the matter is more likely to require independent oversight.

Seniority of officer

The extent to which the rank of an officer impacts on the MOI decision must be considered on a case-by-case basis. All officers are in a position of trust, but as the rank of an officer increases, so too does the public's expectation of trust. Accordingly, the potential impact on public confidence, should that trust be broken, increases in accordance with rank.

Since the introduction of the new regulations on 1 February 2020, the IOPC is required to investigate any referred matter where there is an indication that a chief officer may have committed a criminal offence or behaved in a way which would justify the bringing of disciplinary proceedings.

Discrimination

This should be factored in where a force, officer or staff member may have:

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

If the referral states that a complainant or witness believes the incident to be discriminatory then this would apply. It may also apply if there are words or behaviour noted in the referral that indicate the alleged behaviour may have been discriminatory.

It is important to be mindful of discrimination that is not explicit. For example, in incidents involving an area of policing where research has shown that groups who share a protected characteristic can be disproportionately targeted. Note that conscious discrimination is particularly serious and should be factored accordingly into the decision-making process.

Further information can be found in the IOPC's guidelines for handling allegations of discrimination.

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