

# FOCUS

ISSUE ONE

Practical guidance on handling complaints, conduct matters, and death or serious injury matters within the Police Reform Act 2002

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Reference: IPCC Statutory Guidance paragraphs 3.23 – 3.25

## Recording complaints

**The Police Reform and Social Responsibility Act (PRSA) 2011 amended the Police Reform Act (PRA) 2002, and changed the way most complaints are handled. This includes the way complaints about direction and control are recorded.**

The new legislation means complaints assessed as being about conduct or direction and control must be recorded as complaints under the PRA. It is important they are classified and recorded correctly because this affects how they are handled.

Here we provide examples of direction and control complaints and conduct complaints.

### Definition of direction and control

A direction and control complaint is about the way a chief officer (or someone carrying out the chief officer's functions) carries out any of the following:

- a. Operational management decisions, including force-wide crime initiatives and making general strategic decisions about how certain police powers should be exercised.  
For example:
  - stopping all vehicles in specific locations on a particular date to reduce the number of untaxed vehicles on the road
  - a policy setting out where in airports Schedule 7 stops should be made
- b. Drafting operational policing policies and the process leading to their approval
- c. Organisational decisions, including how police resources are configured and organised, where officers or police staff should be located, how they should be managed, and what equipment they need.  
For example:
  - routine neighbourhood beat patrols
  - buying fleet vehicles
  - structure of local policing divisions
- d. General policing standards in the force.  
For example:
  - setting response target times for emergency calls
  - dress code standards

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A recording decision is needed for direction and control complaints and they might be locally resolved, disapplied, discontinued or investigated. Direction and control complaints are, however, treated differently when it comes to referral and appeals.

A direction and control complaint can only be voluntarily referred to the IPCC if the IPCC consents.

These complaints are excluded from the appeal rights, with the exception of appeals made on the basis of non-recording of the complaint. They are excluded from the non-recording right of appeal where the appeal is about a local policing body failure (outside London – a police and crime commissioner, inside London – either the Mayor’s Office for Policing and Crime or the Common Council).

## The Jordan judgement – what direction and control is

This case happened when direction and control was a reason for non-recording of a complaint, under the previous legislation. This judgement is about a non-recording appeal.

Mr Jordan believed that his mother was inadequately cared for in a nursing home, and that this contributed to her death.

He reported this to North Yorkshire Police (after pursuing the matter through various other bodies, which found no wrong doing). The force decided against starting a criminal investigation.

Mr Jordan wrote to the Chief Constable, but received a response stating that there would be no criminal investigation.

He wrote to the Police Authority, heading his letter “*Formal Complaint Against the Chief Constable...in his failure to investigate the death of Mrs W Jordan*”. The Police Authority declined to record the complaint, stating that the Chief Constable had not taken the decision, so it was a matter of direction and control.

The IPCC upheld Mr Jordan’s non-recording appeal. The Police Authority unsuccessfully brought Judicial Review proceedings against the IPCC, and the judgement on those proceedings provides guidance on what is direction and control.

You can find it here: [www.bailii.org/ew/cases/EWHC/Admin/2010/1690.html](http://www.bailii.org/ew/cases/EWHC/Admin/2010/1690.html)



## Examples of when direction and control does not apply

- A specific decision about deploying officers for a particular investigation or operation. For example, deciding how to deploy officers for the security operation during a sporting event, such as the Olympics.
- Decisions about deploying a particular tactic on a particular occasion, and the use of that tactic. This concerns individual decisions, often in response to particular circumstances, where an officer chooses to use a particular tactic in response to the circumstances. For example, deciding to use containment tactics in response to a particular public order incident.
- The decision to arrest (or not to arrest) and detain a particular suspect for a certain crime.
- How force policies are applied, especially where applying the policy involves an officer exercising discretion. For example, an officer deciding to arrest an individual on suspicion of assault following a domestic violence situation.
- Day-to-day operational decisions in response to a particular set of circumstances. For example, deploying more officers to a particular location because of anticipated trouble at a football match, responding directly to specific intelligence received about that match.

## Case study one: **police resources**

A man attended his local police station at 3pm to report damage to his vehicle in a car park. He was unhappy that the station was closed at this time. He later complained in writing, saying that, while a contact phone number was provided, he feels his police station should be open for face-to-face, personal communication with the public.

*This is a direction and control matter because the opening times of the police station concern organisational decisions about the use of police resources.*

## Case study two: **stop and search**

A police officer stopped and searched a man, who was walking in his local town centre. He complained that the officer did not give a reason for stopping him, and about the officer's attitude. The complainant stated that this was humiliating in front of his friends and he believes he was stopped for being a young male wearing a 'hoodie'.

*The complaint is about the officer's attitude, and the grounds for the stop and search, which means it is about the officer's individual actions – a conduct complaint.*

Case studies one and two show the difference between a **direction and control complaint** and a **conduct complaint**.

## Knowing the answer

The following case studies illustrate complaints where the answer might appear obvious.

### Case study three: **application of force policy**

The complainant contacted the police to report a dispute with her neighbour. She later complained that, although the police telephoned her, nobody attended her address to discuss her concerns. The police viewed police attendance as a policy decision and classed the complaint as direction and control. The police had a policy to attend only when there were aggravating circumstances, such as the person being in danger or the matter being urgent.

*This was wrongly recorded as direction and control. The complaint was about the lack of physical police attendance. It is unclear from the complaint what the dispute was about. An officer exercised discretion to decide that there were no aggravating circumstances. The force had a policy, but it was an individual's decision not to send anyone to attend her address. The response to the complaint might be to explain that the reason no one attended is that force policy is not to attend, and the individual officer followed this policy. Correctly applying a force policy to a specific circumstance means the case is a conduct case that was not upheld or locally resolved, rather than it being a direction and control matter.*

### Case study four: **damage to property**

A search warrant was used, which resulted in forced entry to a property, and the complainant's front door being damaged. The complainant said he believed the information leading to the search warrant being used was false and that insufficient enquiries were made before forcing entry and causing damage. The police used a lawful warrant, and classified the complaint as being about direction and control, as no conduct matters were identified.

*This is not a direction and control matter. While there was a lawful search warrant, the complaint is that someone, at some point in the chain, has done something leading to false information being on the Police National Computer. The complainant also believes that more should have been done before the day and/or the officers who attended that day should have done more than they did before forcing entry. The process and intelligence leading to the warrant would need to be established to address the complaint. There would also need to be further investigation of the decision to force entry without making further enquiries. The perceived merits of the complaint and the belief that the officers followed policy and have done nothing wrong should not affect the way the complaint is recorded.*

## Consider the wording of the complaint

**When assessing a complaint to decide how to classify it, the wording should be considered carefully. If the exact nature of the complaint is unclear, the complainant should be contacted for further information/clarification during the ten-working-day recording period. An example of how a subtle change in the wording of the complaint can alter its classification is:**

### Scenario A

I was recently driving through my local town centre when I was stopped by the police, asked a few questions and asked to provide a breath test. I was told this was part of a new campaign to tackle drink driving. I complied with the request and was allowed on my way. While I am all for cracking down on drink driving, I would like to complain about the ineffective use of police resources in this manner. Such a campaign would be better suited to the city centre, rather than the small town where I live, where the police are likely to catch more criminals.

### Scenario B

I was recently driving through my local town centre when I was stopped by the police, asked a few questions and asked to provide a breath test. I was told this was part of a new campaign to tackle drink driving.

I complied with the request and was allowed on my way. While I am all for cracking down on drink driving, I believe that there was no justification for choosing my local town and I do not think I should have been stopped; neither I nor my driving were displaying any of the characteristics of a drink driver.

**Scenario A** is a direction and control matter because the complaint concerns a police initiative. The complainant is unhappy about the allocation of police resources, believing the police could be better targeting criminals in other geographical areas. The allocation of police resources and force crime initiatives are operational management decisions for the chief officer. There is no specific conduct allegation being made and there is no complaint about the actions or decisions of any of the officers.

**Scenario B** concerns the same circumstances, but the complainant feels that the individual decision to stop him was wrong. While the recording officer might have known about the force's drink driving campaign, the reason that town was chosen, and that every tenth car is stopped under the initiative regardless of how it is being driven, the complaint should be recorded as a conduct complaint. This is because the complainant feels that an individual's decision concerning his specific stop was wrong, so it would be necessary to establish if this was the case and whether the campaign was being fairly and equally applied. This goes beyond the fact that there is a force-wide crime initiative; it is about the campaign being implemented in practice.



### Case study five: **poor standard of criminal investigation**

A man reported theft of tools from his shed. Following an investigation, the police decided against taking further action, concluding that the perpetrators could not be identified. The man complained that certain potential witnesses were not spoken to, and about the lack of forensic investigation. The complaint was considered to be a direction and control matter on the basis that the management of a criminal investigation was an operational decision.

*The complaint should have been recorded as a conduct matter. The allegation is one of an insufficient police investigation and failures in duty. The operational decisions made were not of a general nature, but specific decisions made about a particular set of circumstances.*

## ‘Organisational’ complaints

**The police computerised recording system, Centurion, uses ‘organisational’ as a category to record complaints about direction and control matters under the PRA 2002. Reference to direction and control was removed from Centurion.**

In some cases this term is being used incorrectly. Some forces used this classification when it was unclear that a complaint was against a specific individual. Conduct complaints do not need to identify a specific individual. There are no ‘organisational complaints’: there are conduct complaints, and there are direction and control complaints.

To minimise confusion the term ‘organisational’ should be used only on Centurion. In all other communications – within the force and externally – these cases should be properly called direction and control matters.



### Case study six: general policing standards

The complainant had been harassed by her neighbour for some time. She complained to the police that they failed to take action and prevent the harassment. The complainant asked why the police force was allowing this to continue, as it was causing her family distress. The police recorded the complaint as an ‘organisational’ direction and control matter, on the basis that it was about general policing standards, because the complainant was unhappy with the service received as a whole and no individual officer was identified.

*The complaint should have been recorded as a conduct matter. The allegation is that the police have failed in their duty to take action and it requires a review of the individual action taken in response to each point of contact with the complainant. It is not necessary for an individual officer to be named or specific personal conduct by an individual to be identified for a complaint to be about conduct.*

## Dissatisfaction

The complaints process recognises that sometimes a member of the public wants to raise a concern with a police force without going through a formal process. Police forces should establish if members of the public wish to make a formal complaint to begin with. The informal process is focused on what the complainant wants to happen. It is complainant-led and is appropriate when it is possible to respond to or resolve the issue to the complainant’s satisfaction immediately. Immediately means any explanation or apology that can be given at the time or during the first contact with the complainant. Dissatisfaction should not be used as a method to extend the time the force has to make a formal recording decision. The complainant is the only person who can decide if the explanation or apology they have received is appropriate. They can choose to complain formally at any point. Their right to make a complaint through the Police Reform Act remains and it should be offered if they remain unhappy with the explanation or apology received. Any complaint should then be considered for recording in the usual way.

Dissatisfaction is separate to the formal Police Reform Act process. There should be no sub-categorisation of dissatisfaction. Direction and control is a category of PRA complaint in its own right and separate from dissatisfaction.

## Quality of service

A number of police forces use the category ‘quality of service’ to deal with general complaints about a police force that are outside the remit of the Police Reform Act. This additional category causes confusion. The quality of service that a person receives is a reason for complaining or being dissatisfied, it is not a separate category.

If a member of the public raises a matter, it should be either handled outside the formal PRA process as dissatisfaction or recorded as a PRA complaint (either direction and control or conduct).

## Get in touch

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