| 1 | **Is there anything in the remit or structure of the IPCC which fundamentally undermines its ability to carry out effective and independent investigations?**  
ACPO Professional Standards Portfolio strongly supports and works in close liaison with the IPCC in the discharge of the entire range of its statutory responsibilities; a stance the Portfolio has taken since the IPCC was established, recognising the value and the necessity of independent scrutiny and governance of public complaints and the necessity of independent investigations into deaths and instances of serious injury in police custody or during or following police contact.  
The Portfolio does not consider there to be any fundamental flaw in either the remit or structure of the IPCC and is confident in the ability of the IPCC to carry out effective and independent investigations. |
| 2 | **Does the IPCC have the powers it needs to ensure that its independent investigations secure and maintain public confidence and meet the requirements of Article 2? If not, what additional powers does it need?**  
ACPO Professional Standards Portfolio considers the IPCC has sufficient powers to conduct independent investigations that meet the requirements of Article 2 of ECHR. |
| 3 | **Does the IPCC effectively deploy the powers that it has in order to ensure independent and effective investigation?**  
ACPO Professional Standards Portfolio believes the IPCC is demonstrably able to deploy its powers fairly and responsibly when assessing the facts and circumstances of each particular instance of death or serious injury during or following police contact to ensure individual and collective police conduct, acts, omissions, decisions and judgements are viewed from a perspective of the wide range of risks associated with operational policing, striking a careful balance with individual accountability under the law.  
The Portfolio is keen to ensure the IPCC retains a balanced and considered |
| 4 | **Is the way the IPCC deals with referrals and makes decisions about which cases to independently investigate sufficiently clear and appropriate?**  

ACPO Professional Standards Portfolio supports the IPCC’s commitment to focusing its investigative resource on independent investigations, particularly those with Article 2 or Article 3 implications.  

The Portfolio appreciates the IPCC identifies its own priority areas of concern across policing functions (death and serious injury in police custody; as a result of the police use of firearms and less lethal weapons; as a result of gender abuse and domestic violence, (where it is alleged the police may have failed to protect the victim); following road traffic incidents (which it is alleged the police have caused or failed to prevent) and therefore expects these priority areas to be an influencing factor in mode of investigation decision making. What is not entirely clear is the extent to which, if any, its prevailing investigative capacity is an influencing factor in its threshold for determining independent investigations.  

The Portfolio welcomes this aspect of the IPCC’s review to ensure a better consistency of approach in determining independent investigations, particularly where significant public concern is cited as factor to which significant weight is attributed, as significant public concern can be said to be relevant to each and every consideration. |
### 5. Does the IPCC investigate the “right” cases to secure and maintain public confidence?

ACPO Professional Standards Portfolio welcomes and supports the IPCC’s recent commitment to independently investigating instances of alleged corruption in the wake of the publication of Part II of its 2012 report on police corruption, prioritising those involving senior officers, serious criminal allegations, and gross abuse of police powers.

The IPCC’s clear commitment to independently investigating its priority areas (as above at the response to Question 4) provides significant resourcing challenges for IPCC independent investigations. ACPO Professional Standards Portfolio supports the IPCC’s identification of these priority areas as they are critical to maintaining public confidence in policing.

### 6. Does the way the IPCC deploys staff to the scene of incidents maintain public confidence?

The responsibility for securing and preserving evidence and taking appropriate action in an Article 2 investigation remains with the police until such time that the IPCC can properly and effectively take responsibility for an investigation. It is extraordinarily difficult for the IPCC to effectively take over an investigation until a senior investigator (or an investigator with delegated authority) has received a briefing of sufficient detail as to the chronology and key facts, which invariably will mean attending the force in question to make reasoned judgements. Until such time, the responsibility for the investigation lies with the police Initial Investigating Officer (IIO), usually a senior investigating officer, notwithstanding the force will also be taking steps to establish control over an emerging and escalating critical incident, and putting into place an effective command structure.

ACPO Professional Standards Portfolio considers the firmly established procedures for referring incidents to the IPCC are largely fit for purpose in that all those incidents involving a death in custody or following police contact must be swift and expeditious. In practice, this usually takes the form of a meaningful telephone briefing with the IPCC’s on-call senior investigator by the Head (or deputy head) of Professional Standards or the designated IIO once the emerging facts are known to a sufficient extent. This briefing generally takes place within the initial hour of the developing incident, and will be subject to on-going dialogue as evidence and facts emerge.

With the IPCC’s more recent restructuring from regional to national coverage, the on-call senior investigator can often be based hundreds of miles from the force reporting such an incident. It is then a matter for the IPCC to determine
whether to deploy a more local regionally based investigator to a scene or to a post incident location.

In those cases where a mode of investigation determination is that the incident will be independently investigated by the IPCC, (often self-evident from the circumstances, particularly if a death occurs in custody, as a result of a police shooting, or a road traffic pursuit), the IPCC has to rely upon the integrity of the police ‘golden hour’ response, the investigative strategy, and actions agreed and discussed under the personal direction of the host force IIO until such time the investigation can be effectively handed over, whether by means of a formal face-to-face briefing or otherwise.

ACPO Professional Standards Portfolio believes these procedures stand scrutiny and that the post incident needs and requirements of each respective IPCC independent investigation are met (and indeed in many cases, surpassed). The Portfolio is however concerned that such reliance on the effectiveness of the police response is largely unappreciated by the public, who perhaps are unsighted on the extent to which an IPCC independent investigation remains heavily reliant upon the significant resource allocation that is often deployed in respect of post incident management, including scene management, post mortem management, witness strategy, community impact, intelligence development, and family liaison strategy to name but several of many demanding investigative strategies. As an investigation progresses past initial stages, the IPCC remains reliant upon local force Professional Standards investigators to secure and preserve further additional evidence at the direction of the IPCC.

7 Are the current post incident management processes sufficient to maintain public confidence in the independence and effectiveness of the investigation?

There is certainly scope to build on and improve post incident management. The ACPO Professional Standards Portfolio considers the IPCC’s review should properly take into account the emerging work of a small joint practitioner group that will meet early in 2013 to explore the development of mutually complimentary post incident procedures for thematic areas (armed policing, police pursuits, self defence & restraint, public order and custody).

The manner and the timeliness of the provision of witness evidence of police officers and staff to an IPCC investigation requires revision if public confidence is to be maintained, particularly in respect of investigations into death or serious injury in custody or following police contact.

Once initial post incident account(s) have been secured, the IPCC has tended
to rely upon a methodology of asking officers to provide witness statements, usually at a relatively early stage in an investigation.

The flaw in this approach is that a police officer will quite understandably provide evidence from his or her individual perspective, most notably on what he or she knows or believes to be relevant, and will be reluctant to stray into offering a view on what he or she believes to be either unrelated or irrelevant matters.

From the investigator’s perspective, as investigative lines of enquiry develop, it is often the case that further evidence from a police witness will be sought, and investigators invariably require detail not initially provided to either probe or qualify the account of another witness, and on occasions, may seek an existing police witness’s view on matters not believed or considered relevant in the initial stages. It is at such times that the IPCC has become troubled in certain investigations by officers appearing reluctant to further assist the investigation by providing additional statements. The cause of such unwillingness to assist is often borne from feelings of distrust of the IPCC (whether justifiable or not), particularly where officers do not properly understand why the additional evidence is being sought, or express concerns over the potential for their status to change from that of a witness to being investigated for a conduct matter. The high media profile of certain cases (such as the investigation into the death of Mark Duggan) where there are widely reported polarised views from many stakeholders over the willingness or otherwise of officers to assist the investigation further serves to fuel concerns over trust and confidence. In such cases, public confidence is further undermined by a debate where commentators cite officers as being unwilling to assist an independent investigation and thereby having matters to hide or cover up.

The tactic of how the IPCC routinely gathers key and significant police witness evidence should be subject of more considered investigative strategy, and should focus on the needs of the investigation, which will rarely be best served by officers providing their own statements of evidence. The individual experience and capability of key and significant police witnesses must be taken into account as regrettably not all officers have sufficient breadth and depth of experience to demonstrate full understanding of evidential considerations and many have no wealth of experience of the criminal justice system and the building of complex prosecution cases to rely upon.

The IPCC’s resourcing of independent investigations is an issue here, as quite naturally a significant focus of the early part of any independent investigation is to secure, preserve, assess and analyse truly independent evidence (such as CCTV product, public witness trawls etc). At times, this detracts from the sometimes equally relevant lines of enquiry of properly securing key police
officer evidence.
The IPCC does not have its own scenes of crime officers, forensic scientists or other experts. Does this affect the integrity or perceived independence of the investigation? If so, what could be done to ensure that the IPCC is able to respond in a way which secures public confidence?

ACPO Professional Standards Portfolio recognises the integrity of approach and the professional and impartial expertise that specialist police investigators bring to an IPCC’s independent investigation (such as ACPO’s armed policing specialist advisers in fatal police shootings and accredited road traffic collision investigators in deaths following a police pursuit). The Portfolio believes such policing expertise enhances any such investigation, bringing as it does contemporaneous and relevant operational policing experience to any analytical assessment of operational decision making in often complex and dynamic situations of dealing with risk, threat, harm and vulnerability. Notwithstanding the IPCC is always careful to ensure different police force representation in the engagement of such policing expertise, The Portfolio equally recognises the IPCC can sometimes struggle to convince those who consider the IPCC is less than partial that the engagement of such expertise in independent investigations is justifiable.

Are there particular kinds of case where the IPCC should bring in other outside experts, e.g. health, social care or substance abuse professionals?

ACPO Professional Standards Portfolio is increasingly aware of the propensity of HM Coroners to instruct independent experts to assist juries in understanding complex medical and pathology matters in Article 2 inquests, and also recognises the benefits of engaging suitable experts in earlier stages major investigations. The Portfolio supports the IPCC’s willingness to engage and involve suitably accredited impartial expertise from partner professional agencies (such as emergency medical care or substance misuse) in its independent investigations.
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<th></th>
<th><strong>Are there any improvements the IPCC can make to the interaction it has with other organisations involved in a death (including the police, coroners and the CPS) at the start of, during and after an investigation?</strong></th>
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<td></td>
<td>ACPO Professional Standards Portfolio is conscious of apparently increasing pressures placed on an IPCC independent investigation to disclose material gathered during the course of an investigation before the IPCC has had chance to report upon its investigation and reach measured conclusions as to the relevant facts, particularly where an officer’s conduct is the subject of scrutiny. The legal representatives of bereaved families often argue that the Inquest into a death in custody or following police contact is the only effective means of scrutiny and holding the police to account. The Portfolio is conscious of the absence of definitive disclosure provisions in Inquests does not readily assist coroners or the representatives of properly interested parties to deal with complex disclosure matters with anything like a consistency of approach, and is concerned that demands for disclosure of investigative material can undermine the investigative function, particularly where an Article 2 investigation is not complete or is running parallel to a police investigation into serious criminality with over-lapping evidential considerations. The Portfolio will therefore welcome any serious consideration the IPCC can give to developing a disclosure regime along the lines of scheduling sensitive and non-sensitive material in pre-Inquest hearings.</td>
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<td><strong>Is the IPCC’s role in decisions on disciplinary action understood by the public and those involved in investigations? Should the IPCC have a greater role in deciding whether disciplinary action should follow from an investigation?</strong></td>
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<td></td>
<td>ACPO Professional Standards Portfolio acknowledges the constant and consistent attempts made by the IPCC to both inform and engage greater public awareness of its role in independent, managed and supervised investigations and likewise its work to engage with the police service at operational and strategic levels to better inform officers of the extent of its role and responsibilities in undertaking Article 2 investigations. The Portfolio has concerns over the often ill-informed commentary in public debate over the ability of the police service to robustly pursue and deal with those officers whose conduct or integrity has been found to have fallen so far below acceptable standards that dismissal from the service is justified. The evidence since 2008 is that the service is robust when dealing with officers who break the criminal law or whose breaches of standards of professional behaviour are so serious that dismissal from the service is warranted.</td>
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There is no cogent, convincing or persuasive evidence that an officer subject of a criminal investigation in choosing to resign or retire during the course of that investigation, either prior to or following a decision to charge, would alter the course of proceedings by resigning or retiring.

Similarly, officers subject of gross misconduct proceedings who choose to resign are in fact self-imposing the sanction they would inevitably receive, and in doing so, the service is saved the expenditure of considerable resource. Resignation or retirement before a hearing takes place achieves the same outcome as the most serious outcome available at a hearing and means that the public purse pays for less of the individual’s time. Additionally, there is no need for the expense and effort that a hearing entails, the possibility that a case might not be proven is avoided, as is the potential for any avenue of appeal to the Police Appeals Tribunal. There is also the issue of fairness in that a police officer can exercise a right in law to choose to end his or her appointment as a constable and cannot lawfully be restrained from so doing.

The Portfolio considers there to be sufficient clarity between the role of the IPCC and that of the Appropriate Authority in determining whether disciplinary action should follow from any independent or managed investigation.

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**Should there be a statutory basis for IPCC recommendations, so that police forces must respond formally and declare what action they are taking?**

ACPO Professional Standards Portfolio does not consider the police service has in any way failed to respond to IPCC recommendations arising from its investigations or thematic reports.

The Portfolio and the IPCC share the common goal of wanting to improve standards and the quality of policing services. This includes dealing firmly with those officers and staff who prove to be wholly unsuited to the office they hold and the powers they have at their disposal. We want to educate and reform those officers and individuals who – for whatever reason – have been found to have exhibited standards of performance of duties that have fallen short of expectations. ACPO recognises and supports the IPCC in providing the public and the police service with confidence that there will be fairness and equity in response to criticism, and that the findings of its investigations will be accurately reported as expeditiously as possible.

In those incidents where investigations or concerns have led to the conclusion that the standards of conduct have been found not to have fallen below those expected and that the right action has been taken for the right reasons, we expect the IPCC to reassure the public that is in fact the case, and our
experience is that the IPCC is fully prepared to undertake this responsibility just as it is capable and confident of holding the police service to account.

The Portfolio engages in debate, dialogue and discussion with the IPCC and fully acknowledges the IPCC has proved to be genuine and resolute in its understanding of policing in England and Wales and how law enforcement agencies work together for the common good. The independence of the IPCC should not prevent the development of joint work between it and ACPO for the good of the service, as exemplified by the recently jointly published work on the Abuse of Police Powers (September 2012).

The Portfolio has seen convincing evidence that the IPCC has improved scrutiny of police practices, through its own independent investigations and through those it has managed or supervised, and that the IPCC recognises the balance between individual accountability and organisational failings.

Recommendations from IPCC investigations have not only held individuals to account but where necessary have made clear and direct links to deficiencies in working practices. Examples of the IPCC making recommendations which have led to improvements in guidance and practice include improvements to policing practices and safer transportation and handling of detainees; improving standards of care for those in custody; addressing public safety issues arising from police pursuits; and better informed assessments of vulnerability, risk, threat and harm.

In particular, the IPCC has gained a unique perspective and understanding on the Service’s use and deployment of armed officers, resulting in the introduction of more effective and transparent post incident responses where death or serious injury has occurred from the police use of firearms.

The Portfolio does not therefore consider there to be any need for a statutory basis for IPCC recommendations.

13 How can the process for learning lessons contribute to improvements in policing and help to prevent deaths from occurring in the future?

See the Portfolio's answer to question 12 above.

14 What more could the IPCC do to ensure that the way it carries out its investigations is independent and effective and secures and maintains public confidence?
ACPO Professional Standards Portfolio acknowledges the constant and consistent efforts made by the IPCC in recent times to reinforce its independence of the police in the face of sustained criticism. The Portfolio is well acquainted with the often difficult balance to be maintained between expediting an investigation and its thoroughness. The IPCC is no different in this regard, and it is increasingly vital to the reputational standing of the IPCC that independent investigations can be conducted with all due regard to timeliness, which is often wholly dependent upon the resource available and prioritisation of demand. Any real or perceived delay in holding individuals or the service to account can undermine confidence in the IPCC, and by association, the service. The Portfolio is conscious of the extent of criticism of the IPCC from some quarters, and whilst we do not share this, it is in the best interests of the police service to assist the IPCC as best it can to reach conclusions that are both timely and thorough.

15 Does the IPCC keep complainants, families, interested parties and those subject to an investigation appropriately informed of progress?

One of the most pressing and important responsibilities of the police in the immediate aftermath of a death following police contact is to ensure an appropriately sensitive and factual death message is passed to the next of kin at the earliest opportunity.

Invariably in such circumstances an officer with sufficient experience and with a sufficient briefing attends the family home of the deceased to simply relay the bare and basic facts of the death without any recourse to speculation on any aspect and to ensure the family are aware that the IPCC will be responsible for conducting an independent investigation that would take into account the entire circumstances of the policing operation and that suitably trained IPCC family liaison managers would contact and visit them at the earliest practicable opportunity. Wherever necessary, the service will deploy its own trained family liaison officers (who are often not readily available for immediate deployment and who are generally only engaged after assessments of risk in line with accepted national guidance).

The ACPO Professional Standards Portfolio is conscious that there is often a fundamental difference in the deployment of its own family liaison officers (whose primary function in respect of homicide investigations is to act as a conduit for the investigation for family related matters as well as a means of contact, communication and support). The Portfolio fully appreciates the very real challenges the IPCC are having in the timely deployment of trained family liaison managers in many of its independent investigations to deaths in custody or following police contact. Any criticism of the IPCC in this respect (whether
justified or otherwise) ultimately reflects poorly on the police as a lack of family or community confidence at an early stage will make it more difficult for the IPCC to convincingly deliver fairness and impartiality, particularly where a family is convinced of police wrong-doing irrespective of the facts.

The Portfolio is aware the IPCC is particularly conscious of the need to revise its family liaison function as a critically important aspect of raising and maintaining confidence in its effectiveness and independence. The Portfolio is aware that on occasions, appointed family liaison managers are not local to a bereaved family and it is far from ideal having to travel from all parts of the country to meet the needs of a family in such circumstances.

16 Where information is withheld for “harm test” reasons, is this clearly explained? How might this be improved?

The ACPO Professional Standards Portfolio believes the harm test provides justifiable and responsible grounds for rationale for the withholding of information and that such grounds are set out with clarity and are readily accessible. The IPCC makes clear in several publications that information can only be withheld under these grounds if it is satisfied that there is a real risk that disclosure would have a significant adverse effect on one or more of the grounds provided.

17 Does the IPCC involve the family of the person who has died appropriately in the investigation? Is it sufficiently sensitive to their needs? How might its work with families be improved?

See the Portfolio's response to question 15.

18 Does the IPCC strike the right balance in its communications with the media?

During the course of 2011 and 2012 the ACPO Professional Standards Portfolio
worked with the IPCC to review and revise the IPCC’s guidance on communicating with the media and the public in IPCC managed and independent investigations and is therefore satisfied this guidance remains fit for purpose. The Portfolio considers this guidance provides a sufficient framework to meet the needs of both the IPCC and the police in their efforts to provide relevant and meaningful information to the public in the immediate aftermath of an incident leading to a death in custody or following police contact and beyond.
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<th><strong>How should the IPCC work with communities and community groups to secure and maintain public confidence in the investigation?</strong></th>
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<tr>
<td>19</td>
<td>The ACPO Professional Standards Portfolio acknowledges the constant and consistent efforts of the IPCC to promote and improve engagement with communities, with families of bereaved and with key stakeholder groups, including of course the wider police service in order to secure and maintain public confidence in its investigations.</td>
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<th><strong>Do IPCC investigations take sufficient account of equality and diversity issues?</strong></th>
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<tr>
<td>20</td>
<td>The ACPO Professional Standards Portfolio is aware of the IPCC’s overtly stated commitment to promoting equality and valuing diversity as part of its public sector equality duties and supports its work to analyse equality and diversity trends in casework and investigations.</td>
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<th><strong>Could IPCC reports, or their accessibility, be improved in order to contribute to securing and maintaining public confidence in the IPCC and its work?</strong></th>
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| 21 | The ACPO Professional Standards Portfolio believes the IPCC has taken steps to ensure its investigation reports are written clearly and concisely and contain cogent analysis leading to justifiable conclusions. The Portfolio recognises IPCC reports have to meet the needs of diverse audiences, including bereaved relatives, police officers whose conduct is subject of scrutiny, the CPS and HM Coroner.  

The Portfolio welcomes the IPCC’s online publication of its reports to ensure ease of accessibility, subject to any redactions as necessary to satisfy the harm test and taking into account the timings of any relevant ongoing criminal or misconduct proceedings. |