



## Home Affairs Committee

Oral evidence: [Police conduct and complaints](#), HC 706

Wednesday 27 January 2021

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Members present: Yvette Cooper (Chair); Ms Diane Abbott; Tim Loughton.

Questions 1-53

### Witnesses

**I:** Deborah Coles, Executive Director, INQUEST, and Michael Oswald, Partner, Bhatt Murphy Solicitors, representing Police Action Lawyers Group and INQUEST Lawyers Group.

**II:** Phill Matthews, Chair, Conduct and Performance Sub-Committee, Police Federation of England and Wales, and Victor Marshall OBE, Professional Standards Co-ordinator, Police Superintendents' Association.

Written evidence from witnesses:

[PCO0030 Police Superintendents' Association](#)

[PCO0041 INQUEST, Police Action Lawyers' Group and INQUEST Lawyers Group](#)



## Examination of witnesses

Witnesses: Deborah Coles and Michael Oswald.

Q1 **Chair:** Welcome to this evidence session of the Home Affairs Select Committee as part of our inquiry into the police complaints system. Welcome to our witnesses this morning. We have Deborah Coles, the executive director of INQUEST, and Michael Oswald, representing the Police Action Lawyers Group and INQUEST Lawyers Group. Welcome to you both.

Can I just start by asking both of you to give an overview of your main concerns or your main response to the police complaints system as it operates at the moment? Could you just give us a summary of that?

**Deborah Coles:** Thank you. I really welcome this inquiry. Accountability of the police has come under renewed focus and concern following the Black Lives Matter protests, and there are also concerns about discriminatory policing during the Covid pandemic. In the experience of INQUEST and our work with bereaved families after police-related deaths, too many families continue to be failed by the system, which should provide accountability. That has resulted in considerable anguish, anger and frustration.

There are three key areas that I would focus on. The first is inequality of arms and resources for bereaved families. Imagine that you are thrown into a completely alien system after somebody has died in the care of the state. It is absolutely vital that families are told about their legal rights and where to go for support. In particular, they need access to lawyers with intricate knowledge of and expertise relating to policing, investigations and inquests at a really early stage. That can really help with the quality and rigour of the investigation, particularly in terms of ensuring preservation of evidence, and ensure that the terms of reference properly reflect the family's concerns. It is also a way of the family's effectively contributing to the investigation. It violates any notion of fairness or justice that families are not entitled to automatic non-means-tested funding to support them through that process. That is the first point I would make.

The second is about a culture of delay, denial and defensiveness that, too often, families experience in the process. There is a serious issue with delay from the death through to subsequent conclusions of the IOPC investigation, consideration by the CPS and then any inquest or misconduct process. I know Michael will touch on this as well. I think it is important to recognise the serious impact that delay has on a family's trauma, particularly when they are experiencing a traumatic bereavement and they have to wait years for answers about how their loved one died. I think too often those needs are completely overlooked in this process, and we know from our experience the serious impact that this has on families' physical and mental ill health.

Of course, we know also that the inordinate delays are not just an issue about the IOPC. They are contributed to by other bodies responsible for



## HOUSE OF COMMONS

discharging functions in that process—in particular, police forces themselves, police lawyers and the Crown Prosecution Service, but then the coroner service and police services as well.

I just would make the point that I find it quite frustrating, having given evidence to this Committee over the past 10 years, that many of the points that myself and Michael will be making are points that we have flagged up before. I would also draw your attention to the Angiolini review that was specifically set up because of concerns about the delays and institutional blunders around two very high-profile deaths of two black men who were in mental health crisis: Sean Rigg and Olaseni Lewis. That review looked at the whole issue of the investigation of police deaths in a lot of detail—a report that I think could have been a landmark report had its recommendations been properly implemented. It is deeply concerning that we are still looking at these issues and raising the concerns that we are.

The final point, as a kind of introduction, is concern about the lack of accountability after deaths, both at an individual level but also at a senior management level, and the lack of structural change. We have seen at INQUEST repeated deaths in similar circumstances, many raising very serious questions about excessive and unlawful use of force or serious neglect. Yet disciplinary or criminal charges and sanctions against police officers are extremely rare. Sanctions should play a key role in upholding professional standards and confidence in policing. It is important to point out that there has never been a successful prosecution of any police officer for murder or manslaughter and, even where misconduct proceedings are held, sanctions too often fail to reflect the gravity of ill treatment. This sends out a message, I think, that somehow these deaths don't matter, and also points to a police complaints system that is not capable of doing its job.

The final point: when I talk about structural change, what I mean is the fact that after deaths in police custody, we see a plethora of recommendations coming out of investigations and inquests, recommending change. Very often, it is change that does not involve the police, although quite often there are concerns about, for example, the use of dangerous restraint techniques. Often, the changes proposed are about having, for example, more and better mental health services, so that the police are not the first responders to people in mental health crisis. It is deeply frustrating for INQUEST to see the same issues repeat themselves with depressing regularity, and yet action is not taken to put in place the change.

We work with families, and the first thing that families will say to us is that they want the truth, that they want wrongdoing or criminality to be acknowledged and, more than anything else, that they want action to be taken to try to prevent future deaths occurring. The depressing reality of INQUEST's work is that we see these deaths being repeated. That is my introduction.

**Chair:** Thank you. Michael Oswald.



## HOUSE OF COMMONS

**Michael Oswald:** Like Deborah says, ILG and the Police Action Lawyers Group really welcome the Committee's investigation into this issue. It is very timely, for the reasons that Deborah mentioned.

As a starting point, I think it is useful to reiterate what the purposes of a complaints and disciplinary system are: to maintain public confidence in the police service; to ensure that we are upholding high standards in policing; to deter misconduct; and to ensure protection of the public. It is really useful, at the beginning, to go back to those, because in this context and with this issue, it is quite easy to see it as an opposition of victims of police misconduct versus police officers or police forces.

Actually, when you go back to those purposes, it is quite clear that those are objectives that everybody involved should share. Those are objectives that everybody involved could work together to try to achieve. That is a helpful thing to remember: that we do not need to set ourselves against each other, and that these are objectives that everybody can agree on.

The other thing it is important to recognise at the start, while we are focusing on problems with the complaints system, is that there have been improvements. That is important to note, because it is a reminder that it is possible to achieve improvements by focusing on what the issues are.

On the recent changes, I think it is difficult for us practitioners to assess the impacts yet. The majority of changes came into force in February last year, and they are still working their way through. We do not yet know what the impact of them will be, but it is fair to say I think that they are important developments.

As to future improvement, the three main issues that I would identify are, first, timeliness and the delay in the process. Deborah has already provided an account of the impact that delay has on families, and it is certainly something that I see every day, acting for bereaved families and for victims of police misconduct who have not lost their lives but are engaging in the system themselves.

The impact of delays is enormous. Obviously, I have seen the evidence of the Police Federation, and there is compelling evidence there about the impact on their officers of delay. Again, reducing delay is something that everyone involved can agree on.

I hope that there will be time later in this session to identify not only some of the progress made by the IOPC—there is some way still to go on that—but also, really importantly, other parts of the end-to-end system where delay comes in. Very significant amounts of delay are in other parts of the police complaints and disciplinary system. I would like to provide more detail on that later, along with some suggestions of where improvements can be made.

Secondly—of the three issues—I think there is a real challenge for the IOPC to ensure that the good intentions at the top of the organisation are filtered down to all of those in the organisation. It is a large national



## HOUSE OF COMMONS

organisation now, so there is a challenge there. It is also about ensuring that the good practice that we see on occasion is spread throughout the organisation.

The third of the main challenges I would identify, looking outside the IOPC, is to ensure that the objectives that form the purpose of the complaints system—the need for accountability and public confidence—are properly embraced by all the partners in the policing sphere. We have seen the IOPC make real efforts in that direction, but it is being met with a really troubling level of resistance from police officers, police forces and other policing representative bodies—a real resistance to accountability and oversight. These are people who depend on public confidence to do their jobs, so that resistance is almost surprising, and we have seen it operate as a barrier to the IOPC being able to do its job. The third challenge would be to address that and to ensure that everybody involved shares in embracing accountability and public confidence.

Finally, I think it just has to be said, given the context in which this is happening, that we still see a complaints system that seems incapable, despite improvements in the system, of addressing race discrimination in policing, which is really troubling. While we have seen progress in the system itself, it is really troubling to see such slow movement on that issue. Really, we should be far beyond where we are now.

**Chair:** Thank you. We want to probe some of those issues in more detail. I call Diane Abbott.

**Q2 Ms Abbott:** The Independent Office for Police Conduct was set up in 2018 to replace the Independent Police Complaints Commission. As I think you both know, the IPCC had a poor reputation among certain parts of the community. In 2013, the Home Affairs Committee said that “too often the work of the Commission seems to exacerbate public mistrust, rather than mend it.” In your opinion, has the IOPC produced material change in the community’s attitude to the police complaints system?

**Deborah Coles:** I think the short answer to that, Diane, is no. As I said, INQUEST has covered the emergence of the IPCC to the IOPC, and we still see families being failed by the system that is supposed to uphold standards within policing. You will be well aware of the disproportionate number of people from black and minority communities who die, particularly following the use of force. It is in those communities where I think there is still considerable mistrust of a system that fails to hold the police to account, even where there have been investigations and inquests that have recognised the ill treatment of people and have found excessive or unlawful use of force. I think it remains a matter of considerable concern that you have a police complaints system that does not garner confidence and trust.

**Michael Oswald:** I agree, unfortunately. The overall message is that there has not been a significant improvement in public trust among those communities. I agree with the reasons that Deborah has said. I would add that part of the difficulty is, as well as the work it does, how the IOPC



## HOUSE OF COMMONS

presents publicly. Too often, we see a defensive face of the organisation, almost apologising for the work it does sometimes.

On occasions, the IPCC was able to take a slightly different stance, which was important for public confidence. For example, after Bernard Hogan-Howe left the Metropolitan Police and basically put out a public statement criticising the IPCC's quite robust investigation into the death of Jermaine Baker, in response to that, the head of the IPCC at the time, Anne Owers, put out a very robust press statement identifying that the delay in the investigation had been due to delays in the Metropolitan Police and making a really firm statement about the need for scrutiny and accountability. I think that sent a very clear message to the public about the role of the IPCC. It also, importantly, sends a message inside the organisation, about what its role is and the fact that it is an important role, which they should be proud of.

We can contrast that with some of the press work that we have seen with the IOPC. Where there's been attacks on IOPC investigations by the Police Federation in the press, they have tended to be met with no response or a very weak and defensive response. The important thing here is that the IOPC does sometimes do good work and important work, and if it is seen in the public to be standing up for that and being proud of its role in accountability and public confidence, that sends a very strong message to the public, but also to those doing the job inside the organisation.

**Q3 Ms Abbott:** Thank you very much, Mr Oswald. You said earlier that you felt that recent reforms could represent an improvement but it was perhaps too early to say. The IOPC said to us that, "Recent reforms to the police complaints system have substantially improved the handling of complaints by making the system easier to understand, more accessible and quicker." Is that your impression?

**Michael Oswald:** I think that the reforms can go some way towards that, absolutely. As I said, I think some of that remains to be seen. Some of what we have seen indicates that there are still real problems.

It might be easiest if I give you an example in the context of delay, because that is one of the areas that reforms have aimed to address. One of the changes is to give the IOPC power at the end of an investigation to direct that there will be disciplinary proceedings taken against an officer. The previous position was a long process of statutory backwards and forwards between the IOPC and the police force, and it could take months and sometimes years to go through that process for there to be a decision about whether a misconduct hearing should take place. Now, the IOPC simply asks for the view of the appropriate authority, and in taking that view into account makes a decision about whether misconduct proceedings should take place.

We were very encouraged by that change being brought in and thought it was very welcome. What we have seen in a case one of my colleagues is dealing with—this is just an example; there are others—is the IOPC completing an investigation and giving a view on misconduct and asking



## HOUSE OF COMMONS

the police force for their view and then the police force taking six months to come back to provide it, which obviously completely defeats the purpose of reforms brought in to address timeliness.

The message is that they are welcome reforms. But like with so much in the police complaints system, you can only legislate so far. There are always going to be people who have to carry out the roles in the complaints system, and it only works if those people are willing and able to do those roles well and promptly. Again, even with the new reforms, that is where we are seeing things fall down.

**Q4 Ms Abbott:** Thank you. Ms Coles, is it your impression that the recent reforms have made the system easier to understand, more accountable and, above all, quicker?

**Deborah Coles:** In short, no. From the perspective of the families that we work with, that is simply not the case. Families look to the police complaints system for truth and accountability. The test of any police complaints system is whether it holds police officers to account for ill treatment or abuse of their powers. We have seen a pattern of cases where that simply has not happened. The same deaths repeat themselves in terms of areas where, if the system was functioning properly, you would hope you wouldn't see people dying in similar circumstances.

As our evidence to you demonstrates, we've given examples of the serious delays that still continue within the police complaints system. As I said, those aren't necessarily all the problems of the IOPC. We've got to look at the delay that others bring to that process, but for a police complaints process not to hold officers to account, where there is evidence of misconduct or criminality, to my mind plays into the ongoing lack of trust and confidence.

**Q5 Ms Abbott:** Has the IOPC consulted you and your organisation, INQUEST, or the Police Action Lawyers Group, to gain insight from your work into how its approach to investigations might be improved?

**Deborah Coles:** Yes, there are meetings with the INQUEST Lawyers Group and the IOPC that take place several times a year, where issues are raised with them. To be fair to the IOPC, there's been greater communication and willingness to listen to what we have to say.

I think the challenge is what actually happens in response to the concerns that we raise. That remains a challenge. Sometimes there are statements made from the top of the organisation about the need to take on board what INQUEST and others have said, but that's not necessarily translated into action on the ground. But there is dialogue that goes on and that is important dialogue.

**Q6 Ms Abbott:** Finally, you spoke about the importance of accountability, but I have noticed that the IOPC lays tremendous stress on learning from mistakes. That is obviously important, but it talks about learning from learning, rather than just apportioning blame. But if nobody takes blame, it seems to me difficult to see how you get accountability.



## HOUSE OF COMMONS

**Deborah Coles:** I would agree with you. As I said, in a way there are two separate issues: there is accountability of police officers at an individual and corporate level, and the dissuasive effect on police officers who might otherwise be minded to engage in ill treatment, if they see that sanctions have been brought.

The whole point about an effective and independent police complaints process is that it is supposed to act as a protection against ill treatment and misconduct. That is a real issue. We need to have accountability of police officers at an individual and corporate level, in terms of effective sanctions.

Where police officers engage in ill treatment and abuse, they need to be held to account. There is no doubt about that. Along with that, we also need learning and change. That is the frustration: the two things really need to go hand in hand.

- Q7 **Tim Loughton:** Ms Coles, I want to ask some questions about times and so on, but I sensed a clear frustration in your opening and very comprehensive comments that we are still addressing this issue of the inquiry. I have been on the Committee since 2014 and have been asking for an inquiry since 2016, so it is not before time. We are still addressing problems that you and many others raised many, many years ago. Why do you think that is? Do you think that the IOPC, which was then the Police Complaints Authority, is not taken seriously in Government or among the police, is not accorded the status that it should have, and is seen as a bit of an inconvenient mechanism? Why do you think that the shortcomings that we clearly see, which are the reason for the inquiry, have not been properly addressed?

**Deborah Coles:** That is an interesting question. The Government claim transparency for their policing and legal processes, but our work tells a very different story. I flagged up the Angiolini review earlier because, for me, that is an example of how the then Home Secretary, Theresa May, set up that review because of concerns she had heard from bereaved families about the problems, many of which we have already touched on today. You have a comprehensive review that takes evidence from a variety of different stakeholders. Families played a very important role in that review.

A series of recommendations—more than 100—were designed to try to effect change in the way that deaths in police custody were investigated, and those recommendations came from a lot of different organisations, not just the IOPC, or what was then the IPCC. We just have not seen the political will to implement those, but we have seen an ongoing lack of candour from police officers during the investigation process. That is a real issue that needs to be addressed. From the perspective of bereaved families, as I mentioned earlier, the constant delay, push-back and resistance to proper accountability is a problem in the system.

- Q8 **Tim Loughton:** Mr Oswald, can I put the same question to you? Is there a lack of political will and a resistance somewhere in the system, as



## HOUSE OF COMMONS

Deborah has just said, as to why this has that not been tackled more urgently and more comprehensively?

**Michael Oswald:** I think there is a resistance. I think that what we have in the statutory and regulatory framework for the IOPC and the disciplinary system could perhaps be tweaked, but you have there a system that could provide a framework for accountability and public confidence. What is written in statute and regulation can provide for that, but it depends on all the people who have to discharge a role within that system to have the ability and willingness to do it properly. That means people in the IOPC, but it also means people who staff all the other organisations that play a part in the system: police forces, the Crown Prosecution Service and police officers on the ground.

That goes back to one of the themes that I tried to highlight in my opening: the need for the purposes of the complaints and disciplinary system—public confidence and accountability—to be embraced by everybody involved in it. That includes the IOPC, which has had its cultural problems embracing accountability and the need for public confidence, but it also includes all those other organisations, particularly the CPS, police forces and police officers on the ground, which need to embrace the need for public confidence and accountability.

**Q9 Tim Loughton:** You have both raised timeliness as a key complaint. Deborah, you dwelt almost exclusively on deaths in police custody as a result of police action, which, mercifully, is a small part of police complaint work—arguably the most important, obviously. But there are probably three main aspects of this, aren't there? There is one where somebody has lost their life—it is, therefore, about how one deals with the family in getting justice and getting to the bottom of exactly what happened, for the sake of the family.

Secondly, there is somebody who has been the victim of injustice at the hands of the police and puts in their own complaint, and who may have to wait a long time to get a conclusion, during which time some police actions may be overhanging them, which they need to be able to clear from their record, as it were.

Thirdly, there is the effect on the police officers themselves. The complaint that has come from the other side of this is that, where there are long-drawn-out and long-winded inquiries—in some cases, without much foundation—there is a cloud overhanging serving police officers, preventing them from being able to get on with their jobs, and perhaps preventing them from being promoted or whatever, and when it comes to find them completely vindicated and that there was no misbehaviour to sanction, effectively they have had their lives on hold.

Do you agree that those three aspects are the main aspects of this? Do you think the lack of timeliness applies equally to all three of those, or is there some degree of double standards as to how urgently some of those inquiries may take place?



## HOUSE OF COMMONS

**Deborah Coles:** My expertise is in deaths in custody, because those are the families with whom we work, but I fully recognise that, of course, timeliness impacts on everybody concerned.

I go back to Dame Elish Angiolini, who made the very compelling point in her review that these investigations should be conducted in the same way as you would expect of an investigation into a civilian death, and that timeliness should be an absolute priority. From an early stage, there should be co-operation and collaboration between all the different components—the Crown Prosecution Service, the coroner’s inquest and the Health and Safety Executive, if indeed they are involved—to try to ensure that the investigation is done in a proper and timely fashion, and that it is the most rigorous investigation, particularly where somebody has died in the care of the state.

In terms of the other areas, Michael is probably better equipped to deal with that. I also think that sometimes it is a bit disingenuous of the police to complain about timeliness, when we know that there are a number of examples of the police themselves contributing to that delay. That particularly goes to the point about candour and about willingness to give statements and to be interviewed. I think the IOPC needs to be more proactive in calling to account those who are responsible for delays or a refusal to co-operate with investigations.

Q10 **Tim Loughton:** Are you saying that in some cases police are deliberately frustrating the process, to spin it out for whatever reason, and that the IOPC is failing either to identify that or to clamp down on it and say, “You need to get on with it”?

**Deborah Coles:** Yes, I am, because I have too many case examples of where that has happened.

Q11 **Tim Loughton:** Why is that happening? What’s the incentive?

**Deborah Coles:** One of the things that we know from some of the cases that have taken many, many years—we need to be clear that there are far too many deaths where families have waited years and years for there to be conclusions to these processes—is that we have examples of where there have been delays, which have been contributed to by the police, and then the police have argued abuse of process because of delays. I am giving you evidence based on the experience from our casework.

Q12 **Tim Loughton:** There was a report in *The Guardian* earlier this month, and one of the statistics was that only 8.4% of officers in England and Wales who were found to have seriously breached standards, which could be a sackable breach, were actually fired as a result of disciplinary action. Do you agree that that sounds extraordinarily low if they have effectively been found guilty?

**Deborah Coles:** Yes, and it reflects the concerns that I have raised before about sanctions against police officers where the evidence has warranted serious concerns about their conduct. It is certainly a pattern that we see within our work at INQUEST.



**Q13 Tim Loughton:** Mr Oswald, taking it further than the most serious cases—deaths in custody—do you want to comment on the reasons for the lack of timeliness in some of these investigations, what could be done to speed them up and where the fault really lies?

**Michael Oswald:** It is important to see the process from the beginning to the end. You start with an investigation, and there are delays there by the IOPC. They have taken some steps towards addressing those, and there is further to go. As Deborah mentioned, what victims of police misconduct often see is that delays in the investigation are caused by officers delaying attending an interview, delays in the police force providing evidence to the IOPC, which is almost always in the hands of the police force, and delay or refusal by officer witnesses to provide accounts to the investigation.

As to why that happens, compare it to a normal criminal investigation into crime by a member of the public, where what would happen is that the member of the public would simply be arrested, taken to a police station and interviewed. Very rarely does that happen to officers. Instead, interviews are made by arrangement, and there is a long delay in that. That is something for the IOPC to address, in terms of the pressure it might put on officers and police forces to co-operate at an early stage.

After an investigation, a matter might be referred to the Crown Prosecution Service for a decision to be taken on whether any police officer is charged with a criminal offence. It is at that point that victims of police misconduct see months or even years of delay being built into the process. I am talking about cases involving death, but also cases not involving death and involving other forms of mistreatment of victims of police misconduct.

Taking just one of the examples that we highlighted in our written submissions, we were acting for a family who lost a 10-year-old child and another relative due to police conduct. The matter originally went to the Crown Prosecution Service in September 2017, and that was to take a decision about whether to charge any officer. The Crown Prosecution Service took 10 months to reach that original charging decision—almost as long as the IOPC investigation. They decided not to charge, which was a decision that the family thought was wrong. The family had a right to review it, they exercised that right and the Crown Prosecution Service took a further seven months to review the decision. Again, the decision was not to prosecute. After the inquest, which followed shortly afterwards, the Crown Prosecution Service agreed in August 2018 to review the decision again. We are still waiting for that decision.

**Q14 Tim Loughton:** I absolutely agree that there can be delays with the CPS, but in the process before something gets to the stage where it might be referred to the CPS—i.e. it has become a criminal matter rather than an internal investigation and disciplinary matter—do you think that the IOPC has sufficient teeth at the moment to ensure the police are getting on with providing the evidence, etc., for their investigation to proceed? Do they have the powers to do so, and if so, why are they not using them? Is the delay with the IOPC itself, and if so, is it fit for purpose? Or is the



## HOUSE OF COMMONS

delay with the police, and the IOPC don't really have the powers to speed up?

I will not go into my example, but I was involved in my own complaint which took three years and eventually four of the five complaints were found in my favour. But, after three years, every single senior police officer who had been involved in the investigation had taken early retirement. Therefore, there were no repercussions from it whatsoever. Is that commonplace?

**Michael Oswald:** That is a sadly familiar story for the victims we represent. In response to your question about who is it at fault—whether it is the police, the IOPC or the lack of powers—first, you would want to see a situation where the IOPC did not have to act to compel police forces and officers to co-operate, and you would want to see them recognise the importance of accountability and co-operate accordingly. Sadly, we do not see that.

The question, then, is whether they have the powers. For the most part, the powers that exist in the statutory and regulatory framework are adequate. The question is why they are not being used at an earlier stage. Why does it take months of cajoling by the IOPC to try to get police officers to co-operate, rather than invoking the powers that it has? The IOPC has powers to arrest police officers, if necessary, but those are very rarely invoked. You would not necessarily want them to be invoked, because you would expect co-operation. Sadly, however, that is lacking, and when it is lacking, the IOPC does not act early enough to use its powers.

Q15 **Tim Loughton:** So it has the teeth, but, for whatever reason, it is not using them in a timely manner, if the police are choosing to go slower. That is the bottom line.

**Michael Oswald:** Yes. That is the bottom line.

Q16 **Chair:** I have a couple of further questions. You referred, Mr Oswald, in your opening remarks to the complaints system not adequately addressing issues around race and discrimination. Could you say a bit more about what you think the complaints system does wrong and what should be done about that?

**Michael Oswald:** There are problems throughout the complaints system, but there seems to be a complete lack of understanding and ability to engage with complaints of race discrimination. The civil courts have developed systems around the difficulty in proving race discrimination. It is not usually about the use of racist language or something you can point to, but sometimes you need to look more closely to examine the ways in which people act to uncover race discrimination. The civil courts have developed a way of doing that. It is not perfect, but it is about the burden of proof and the way that that operates. We should see the same thing operate in the complaints system, but we do not. It seems every other possible explanation for mistreatment will be explored and then ruled out before those investigating complaints will consider race discrimination,



when it is quite obviously at the forefront of what happened. I think there are also failures in the way in which it is investigated. For example, if there is a complaint of race discrimination against a police officer, you are often just talking about one incident on the street, but what can help us to understand the way in which a police officer acted is to look at their prior record, for instance, the way in which they have carried out stops and searches. Do they disproportionately stop young black men? Who has made complaints about them in the past? Not just, "Have people complained about them previously for race discrimination?", but, "Are the people who have complained about them in the past disproportionately black men?", for instance.

All those sorts of investigations could start to build up a picture of the reason for misconduct in a particular case. Sadly, what we see is those investigative avenues not being followed. And I think it goes back to a failure really to believe that race discrimination is happening and a failure to engage with it when complaints are made.

Q17 **Chair:** What would you do about it?

**Michael Oswald:** I think that, both in police forces and in the IOPC, there have been some important contributions made to training by people who have been subject to race discrimination, and as I said, it is very often not the use of racist language but subtler, more invidious forms of racial discrimination, and using those as case studies by means of training has been effective in some police forces and in the IOPC. It allows people to understand that race discrimination is not necessarily just through use of racist language but through other forms of behaviour, too. For those of us who see this, as we are acting for victims of police misconduct, it is very apparent, but it may not be to those who are investigating it, and I think that that type of knowledge needs to be shared.

Q18 **Chair:** Deborah Coles?

**Deborah Coles:** One of the things I just wanted to flag up is that we know from our work and from our monitoring of deaths that there are a disproportionate number of people, particularly black men, who die following the use of force, and there are questions about how racial stereotyping has kind of seeped into the culture of policing, which results in perceptions, particularly of black men as being big, dangerous and more likely to be subject to the immediate use of force.

I am talking about this in the context of deaths, but we have also seen recently the concerns raised about the disproportionate number of black people who are being tasered by police. I have to say that one positive thing I think that the IOPC did a while ago was when their chief executive, Michael Lockwood, actually issued a strong statement about concerns over the use of taser, and they are conducting a review of that at the moment.

However, I think that for too long we have avoided looking at the whole issue of institutionalised racism within the police force, as if somehow we have moved on from the Macpherson inquiry. One of the important things that the response to the murder of George Floyd has done is that it has

focused on those important questions within the context of police forces and the way in which they police black communities in particular.

So these are important issues, and I think that it is concerning that when you look at the investigation of deaths you see how rarely the question of race, racism and discrimination is part of the terms of reference of those investigations.

Q19 **Chair:** Thank you. Is it your sense that the issues that you have raised concerns about are issues around powers, procedure and culture, rather than resources? Deborah Coles, can I go to you first?

**Deborah Coles:** Yes, I think so.

Q20 **Chair:** Michael Oswald?

**Michael Oswald:** I'm sorry—are you talking generally, or specifically about the failures in addressing race discrimination?

**Chair:** Actually, I was thinking more widely then. In terms of all the issues that you have been raising in response to all our questions this morning, it has been interesting that neither of you have really raised the issue of resources. Very often, when we undertake inquiries into any aspect of policing, at a certain point in the debate, resources are raised. It is interesting that you have not done that today. I am interested because some of the issues about delays and problems in procedures could be around some of the race issues and some of the other answers that you have given. Do you think that the problems are around culture, powers, attitudes and procedures, as opposed to the level of resources in the system to do different things?

**Michael Oswald:** It think a lot of the problems are around willingness and ability to do the job well, but, particularly when it comes to timeliness, resources are a big issue. The resources that the IOPC are able to allot to particular investigations must inevitably impact the timeliness of those investigations.

I would also say that there are resource decisions that must be taken by chief constables, about how they resource their professional standards departments. Those must have an impact on investigations that are done by the police themselves, but also on the resources that the professional standards departments have to comply with IOPC requests for evidence and information.

**Chair:** Thank you. Do my colleagues have any further questions?

Q21 **Ms Abbott:** Could I quickly ask a question, Chair? On the question of race, the Committee has been told that no ethnicity data is kept for restraint-related death. I find that surprising, because some of the most high-profile examples of deaths following contact from the police were to do with restraint. Is this true? Would it help to keep that data?

**Deborah Coles:** It is an important question, because there is definitely a challenge when it comes to getting good data from the IOPC in a regular way. As you will be aware, we monitor all deaths in police custody or



# HOUSE OF COMMONS

following police conduct. At the moment, we are trying to work on getting a far better picture of the issue of race and ethnicity. That is something that we have engaged in dialogue with the IOPC about; they are working to help us ensure that we have a proper overview of who is dying and the circumstances in which they are dying, particularly around the area of use of force and restraint.

We have that information, but obviously that is only on the cases that we are working on. Although we work on the majority of police restraint deaths, there will be others where the families have not found us, or the deceased may not have a family member.

**Ms Abbott:** Thank you.

**Chair:** Thank you. I thank both our witnesses. We very much appreciate your time this morning and we are grateful to you. If you have any further thoughts that we did not cover in this morning's session, or any issues that occur to you in response to this morning's session, please send us further written evidence. Thank you for your time. Can we move on to our second panel, please?

## Examination of witnesses

Witnesses: Phill Matthews and Victor Marshall OBE.

Q22 **Chair:** We welcome Phill Matthews from the Police Federation and Victor Marshall from the Police Superintendents' Association. Welcome to you both and thank you for your time this morning.

Can I ask you the same opening question that I asked the first panel? What is your overview of the police complaints system at the moment—your assessment of it and your main concerns about it? Can you summarise that for us, based on the experience of your members? Can I start with Victor Marshall?

**Victor Marshall:** Thank you, Chair, and good morning. This inquiry is welcome; it is important for our members that the police complaints system is looked at to see where further improvements can be made going forward.

The police complaints system has been on a journey since the inception of the Police Reform Act back in 2004, going through the IPCC and then moving on to the IOPC.

From our point of view, many of the issues that have already been discussed are issues for our members as well, particularly around timeliness in the system. We would like to explore that a little bit more, as well as the accountability of the IOPC themselves, because we share the same frustrations about how long investigations go on. Understandably, those who make complaints against the police want answers; equally, our members, who are sometimes subjects of these investigations, would like



## HOUSE OF COMMONS

these matters to be brought to a conclusion so that families can have explanations as to what has happened. So the delays that do exist not just with the IOPC but also sometimes, as has already been said by other speakers, with the CPS and the time it takes for inquests, for example, are equally issues for the Police Superintendents' Association.

Of course, our members are also invariably those who head up the professional standards departments that exist in each force for England and Wales. Resources is an issue sometimes—maybe we will talk about that. The other side for us is about the quality of the investigations from the IOPC themselves, because the two go hand in hand. We want timely investigations, but we also want quality investigations, because that is important for everybody in providing answers to what happens in some of the most serious cases.

**Chair:** Thank you. Phill Matthews?

**Phill Matthews:** Good morning, Chair. I would like to start off by saying that our members are placed in a position by the public of having to deal with some of the most chaotic and dangerous individuals in society—people who have mental health problems, alcohol or drug addiction—as well as members of the public when they are having a really bad day because something really bad has happened to them, or they are being told they have done something wrong, which nobody likes. So we are immediately put in confrontational positions with the individuals we are dealing with.

In that context, it is no wonder that people want to complain about our members, but, just because they complain, that does not necessarily mean that our members have done anything wrong. I would turn some of the statistics on their head and say, actually, we have one of the most accountable police services in world, and the fact that no police officer has ever been successfully prosecuted for murder or manslaughter, as you were told earlier, is a massive positive: it is because they have not committed those offences. I want to start with that positivity.

On the system, we find it is certainly bureaucratic and lengthy, and particularly around the IOPC we have some real issues to do with their culture, knowledge, training and abilities. We do not think they have the right depth and breadth of knowledge, we do not think they have the right training, and they are absolutely unaccountable. They have the same powers as a police constable in certain circumstances, yet they are shrouded in secrecy and not particularly open. If you look at their own complaint statistics, they get a huge number: the last ones I have say they had 450 complaints in 2017-18, but they only deal with about 500 or 600 investigations, so that is an absolutely horrific level of complaints about them, and they uphold a large number of those. We have some evidence that actually they are not up to scratch when it comes to their own investigations.

The timeliness is a massive issue for my members. I completely agree with the previous witnesses that a delay does not serve anybody—it does



## HOUSE OF COMMONS

not serve their complainants or our members at all. I do dispute that the delays come from our members; they don't. Our members in fact expect scrutiny, particularly in the most serious cases, and they want to help. A lot of the time, we do not know what causes the delay. We ask, but we do not get any response.

Bear in mind that a lot of the allegations investigated are actually really simple investigations. All the people involved are known. If they are complainants or families of deceased, we have all that data there. All the police witnesses are known and available and have usually written statements. There is other documentary evidence. There is usually CCTV video or body-worn camera video. So they are actually relatively simple investigations to manage, and there is absolutely no reason why they drag on and on for as long as they do.

There are delays elsewhere in the system and we think that could be addressed with better memorandums of understanding between the different agencies, but we think a lot of that is contributed by the IOPC themselves, in that they are referring the wrong cases—hence why things keep bouncing backwards and forwards—and not actually gripping that and taking accountability. I think in a lot of the cases, it is very simple for them to placate complainants, particularly where lawyers are involved, by saying, "Well, we believe you, but we will throw it to a panel or a court or the CPS to decide." Then they are surprised and shocked when those don't get anywhere because they are not referring the right cases.

We are probably the first people to accept that, actually, when our members have done wrong, when they don't deserve to be in the force; we assist in exiting them from the force. We take great pride in that because police officers are very good at rooting out those that don't deserve to wear the uniform. That is borne out by the statistics.

**Chair:** Thank you. We want to explore these issues around delays further. I will go to Tim Loughton.

Q23 **Tim Loughton:** Mr Matthews, you just said that the delays do not come from your members.

**Phill Matthews:** By and large.

**Tim Loughton:** You don't think that any part of the delay in the process is down to lack of timeliness by members of yours who are being investigated, or potentially deliberate frustrations of the process, to spin out the time, for all sorts of reasons. You really do not see that as a problem.

**Phill Matthews:** That is not my experience, sir, no.

Q24 **Tim Loughton:** So you would be very surprised if there were any cases where untimeliness is down to lack of response, poor response, deliberate absence of response from police officers under investigation themselves.

**Phill Matthews:** There will always be some time delay when you get into making arrangements for interviews and so on, because you have shift



## HOUSE OF COMMONS

work— don't forget our members are still working throughout most of these investigations. They are working nights, days, afternoons, so they have to fit around that. There will always be some element of delay, but my experience and that of most of my conduct leads who represent our members up and down the country is that the delays are not coming from our members. We will quite happily provide accounts. I just don't recognise that.

- Q25 **Tim Loughton:** Are you saying that if an officer is being investigated he or she would not have permission to be able to work to co-operate with an investigation because of all the other work that they are doing? Are you seriously saying that it would not be a priority to provide information as part of an IOPC investigation and that they would have to get on with the rest of their day job?

**Phill Matthews:** It really does depend on the seriousness of the allegation that is being investigated. If somebody is dead, obviously they will be released and they will be part of a post-incident procedure, with the aim of getting the best evidence as quickly as possible. That is catered for under the post-incident procedures. If it is a less serious allegation, my members will usually turn around a response within 10 days. There will always be some delays—they might be off duty when the request comes in, for example. There may be a few days' delay but it is not anything more serious than that. If they are off sick, or something like that, that might cause some of the delay, but that is not my experience, no.

- Q26 **Tim Loughton:** Have you done any research or are you aware of any statistical research on the reason for delay?

**Phill Matthews:** You were breaking up a bit, there, sir, but I think you were alluding to whether I had got on any statistics on delay.

**Tim Loughton:** On the reason for delay. Can you actually back up the fact that most of your police officers will be able to turn around those investigation inquiries in 10 days, or whatever it might be—or is that just your hunch?

**Phill Matthews:** No, that is certainly my agreement with the IOPC as the representative who leads for conduct. That is an agreement that I have had with them for some time. To turn that on its head, is there evidence that my members are not co-operating? That is not my experience.

- Q27 **Tim Loughton:** That is what I am trying to get to the bottom of. You also commented—you may well be justified in doing so—on the capability of people working within the IOPC. They lack breadth of knowledge, they are absolutely unaccountable and they are shrouded in secrecy were just three of the claims that you just made. Apparently, 28% of the IOPC staff conduct investigations are by ex-police officers. Is it just the 72% who are guilty of those claims?

**Phill Matthews:** No, but if there are ex-police officers, how long have they been out of the police service? Are they fully up to speed? I am making a broad generalisation. There are some very good people that



## HOUSE OF COMMONS

work for the IOPC, but there are also some where we see a staggering lack of knowledge.

- Q28 **Tim Loughton:** Okay, so is it a good thing in principle that an ex-police officer should be considered to be part of IOPC investigations inevitably against other civilian or recently retired police officers? Is there a problem with that?

**Phill Matthews:** Personally, I do not have an issue with that because professional standards departments are made up of a mixture of police officers and civilian investigators, and they do a very good job at rooting out those that do not deserve to be in the police. The vast majority of dismissals from the police service come from within. They come from conduct investigations that are instigated by our members and investigated by our members. A very, very tiny percentage—less than 0.1%—of those public complaints that come in against our members actually result in a dismissal. I think it was 33 from 60,000-odd allegations last year that required dismissal. The vast majority are done by police officers having rooted out their own.

- Q29 **Tim Loughton:** I am just trying to get to the bottom of where you think the hold-up is and where the lack of quality to this whole service is. I am trying to understand how somebody who has recently been a police officer could have a lack of knowledge about procedures and where to go and might be deliberately frustrating or holding up the whole process, hence my question. It is difficult to quantify, but are you more confident that those recently retired police officers are more capable of doing a better, more timely, more thorough job than the 72% who do not have a knowledge of being in the police force?

**Phill Matthews:** Yes, I would have more confidence in that.

- Q30 **Tim Loughton:** So should we have 100% ex-police officers employed by the IOPC?

**Phill Matthews:** I am not precious about who does the investigating. What we want is the best possible investigators with the best possible training and knowledge to investigate our members, because that is best for our members and the police service.

- Q31 **Tim Loughton:** Okay. Mr Marshall, what is your comment on the reasons for this lack of timeliness? Where do you think the fault lies? Do you agree with Mr Matthews that if it were all police officers, it might happen more efficiently?

**Victor Marshall:** In terms of who does the investigations in the IOPC, this has been a debate ever since the IOPC came into being. Is it right to have former police officers? Does that compromise the independence of what was the IPCC and is now the IOPC? I remember going right back to the start of a discussion that was had about what would be acceptable to the public. Would it be 25% of IPCC staff, as was, because at that time it was a brand-new organisation bringing in new staff for the first time, having external investigators investigating police officers, which of course the previous Police Complaints Authority never had. For us, it is about the



quality of it. It is not about whether they are former police officers. Certainly there was a plan that all IPCC staff—I am not sure now for IOPC—would go through full, accredited investigation training run through a university. In our view, if you get quality investigators who know their powers and the system, invariably you are going to have timely and quality investigations. It matters not to me whether that is an ex-police officer or not. In fact, there is an argument that if there are no ex-police officers there will be more confidence that the IOPC is truly independent, but I am sure they benefit from the richness of having some ex-police officers working within their number.

- Q32 Tim Loughton:** But should those ex-police officers actually be the investigators? You can have them there to advise on procedure and identify things that a layman would not necessarily see. But if you have ex-police officers on the frontline and investigating other police officers, presumably there would have to be some sort of declaration that they could not investigate those with whom they were familiar or from their own previous force. Do you think that there is not a problem and that they are not compromised when effectively marking their own or former colleagues' homework?

**Victor Marshall:** There will always be an argument that having former police officers—and accepting that they will need to declare a conflict of interests if investigating people back in their previous force—investigating the police will raise suspicions that they are not going to be as robust, necessarily, from the public's point of view than if it was someone who was completely independent. Providing investigators have the right skills to undertake these investigations, I do not think it matters that there are not any ex-police officers

- Q33 Tim Loughton:** Thank you. What are the requirements? Will you be specifically barred from an investigation into Sussex police if you formerly worked for them, or is it not as clear as that?

**Victor Marshall:** I am not sure what the IOPC's internal policy on that is, but I would expect that there would need to be some form of formal declaration if there is a conflict of interest. As Mr Matthews has said, obviously from a professional standards point of view, each force is charged with investigating their own.

- Q34 Tim Loughton:** So you are upholding that the fault here, from my understanding, is the lack of ongoing training and expertise from within the IOPC in order to investigate cases in a high quality and timely manner. That is where the problem lies and what needs to be addressed. Is that fair?

**Victor Marshall:** It is about the quality of the investigation, and also the accountability. We welcome the Home Office bringing in the 12-month time limit for needing to write to the police and crime commissioner, which was a good first step. Of course, it does not have teeth beyond that. We are suggesting a mechanism—and not just for police officers; perhaps legally qualified chairs could undertake this role, in a case management approach—through which complainants' representatives could go to



## HOUSE OF COMMONS

someone and say, "Look, this isn't good enough. There is no explanation here as to why this is now still dragging on after nine months." As Mr Matthews said, many of these cases are not complex and these are not complex investigations.

**Q35 Tim Loughton:** I do not know if you sat in on the previous witnesses, but I saw set out three scenarios in terms of bereaved families of victims who have died, which fortunately is a small part of the work, with police officers making complaints because there is now an investigation against them that has not proved to have any substance and their reputation or career can be damaged. Thirdly, and very important as well, certain police officers are in limbo while those investigations are going on, which can take a very long time, so the police officers are in limbo for a very long time, which is in no one's interest.

You only really focused on the third of those in your opening comments. What store do you place on the importance of getting this right for the families of victims and living victims trying to clear their name, effectively?

**Victor Marshall:** It is crucial. I share exactly, and in fact wrote down, what Mr Oswald said: we have shared objectives. Legitimacy of policing is also reliant on the public and those who feel they have been wronged being able to raise those concerns properly, and for those concerns to be looked at and responded to in a timely way. "Justice delayed, justice denied" exists across the whole system.

We feel for everybody when these things drag on. Obviously, it has an impact on our members, their families and their careers, but absolutely it has an impact on complainants and those who feel they have been wronged. Answers need to be given. The longer these things go on, the worse the situation becomes. I absolutely feel for those in all of it, and we share those objectives.

That is one of the reasons why a number of these reforms have come through from us, such as having independent, legally qualified chairs to chair misconduct hearings, instead of chief officers, so that the public do not think that that is just the police looking after the police and the police judging the police. Having lay members on gross misconduct hearings was, again, a suggestion from us. Having the IOPC present cases itself came from the suggestions of the staff associations. Having hearings in public came from the staff associations.

We absolutely share the objective that we want a system that is robust and that holds those police officers who have genuinely done wrong—in terms of misconduct—to account. Equally, however, in a timely way, we want to ensure that answers are given and that police officers are not in limbo, as you quite rightly set out.

**Tim Loughton:** Thank you.

**Q36 Chair:** Mr Marshall, just to follow up on that, you have advised the Home Office, as well as the Police Superintendents' Association, on the police



## HOUSE OF COMMONS

complaints system. I am still not clear about your diagnosis of why it still seems to take so long. Everybody has been talking about problems and delays in the complaints system for a very, very long time. Why is it that somehow the system does not seem to be capable of solving the delay problem?

**Victor Marshall:** First, I think there has been more of a process issue, if I can call it that. The legislation is overly complex. You only have to look at the raft of regulations under two different statutes and the amount of guidance issued by the IOPC, the Home Office and by the College of Policing. That is a difficult place to navigate for those operating the system. That is a small part of it.

There are some cultural issues. To give an example, somebody from the IOPC approaches to have a statement from one of our members. The first they may get is an email to say, "We want to dispatch two investigators to 'interview' you as a witness." These are senior people within the organisation. In the first instance, on the request of a statement, we will provide a statement, and that will speed things up remarkably. If any follow-up needs to be done, that can be done. It does not need to be the suspicion that asking for a statement will lead to police officers not providing everything that is in their gift to provide.

In fact, one of the other things that is important is that we supported having the duty of candour effectively written into the standards of professional behaviour for police officers when they are witnesses, giving them the duty to co-operate in a timely fashion. We welcome that. There is a smarter way of working across the system if we all move to understand that there is a shared objective.

Of course, there is a difference between somebody being a witness and somebody being the subject of a criminal investigation. By the very nature of what police officers do, sometimes that investigation and the notice they are served with will say, "You are also under criminal investigation." Of course, that brings with it the protections that anybody in society has if they are the subject of a criminal inquiry.

Q37 **Chair:** So your sense is that the delays in the way in which police officers respond are partly because of the way they are asked the question in the first place. Is that what you are saying?

**Victor Marshall:** I am saying that there is a clear distinction between police officers who are witnesses and police officers who are being treated as criminal suspects. In relation to those being treated as witnesses, there are quicker ways in which that evidence could be obtained. It is about trust and confidence, and it is fair to say that officers' trust and confidence in the IPCC was lacking. We are seeing slightly improved confidence with the IOPC. We are hearing the right things, and we are hopefully confident that that will continue to increase. The more confidence there is in the process and that people will be treated fairly, the more—obviously, we hope—that those shared objectives will actually to come to fruition.

Q38 **Chair:** That feels like a bit of a glacial process, in terms of what we might



## HOUSE OF COMMONS

do to speed things up; who knows how long that confidence-building process could take. In the short term, all our witnesses this morning agree that these delays are a problem and on what we could do to speed them up. You seem to suggest, effectively, incremental changes to get statements more speedily from those officers who are witnesses in cases if they are approached in a different way. However, for those police officers who are effectively being investigated—potentially in a criminal investigation, or at the early stages, before that has been decided—do you think it is possible to speed up that process, or are you saying you think that some of those delays will always be in the system?

**Victor Marshall:** No, I think it is possible to speed that up as well, including timely disclosure, in terms of criminal investigations. In policing, in the most serious cases, if the right resources are placed into an inquiry at the earliest stages, these things can be resolved very quickly and brought before courts if necessary, so I see no reason why, even in criminal investigations, there needs to be long delays. If people comply with their obligations, for example on disclosure and so on, these decisions can be made. There is another issue, on which I absolutely agree with previous speakers: when things go off to CPS, we have suffered from waiting a long time.

Q39 **Ms Abbott:** I have just a couple more questions on delays. Our earlier witnesses were very clear that the police contributed to delays. They said it was because of a lack of candour and an unwillingness to make statements. They then pointed out that it was extraordinary that the police would often talk about abuse of process, complaining about delays that they themselves contributed to. Are you saying that there is absolutely no truth in that?

**Phill Matthews:** Who are you directing that question to?

**Ms Abbott:** You can answer. You said that you have no experience of the police contributing to delays, but you cannot be involved in every single case. Our earlier witnesses were very clear and specified how the police contribute to delays.

**Phill Matthews:** I want to start by saying that things have improved. Under the previous regime—the IPCC—there was a huge amount of mistrust, and there were occasions in the past, probably four, five, six years ago now, where officers were refusing to be interviewed by the IPCC, but that is not the case now. We have reached a better place. The understanding between our organisations has improved massively. On the abuse of process argument, I have successfully argued that for my members previously.

There are delays in the to-ing and fro-ing, as one of the previous witnesses identified, between the police force, the appropriate authority and the IOPC, and those can certainly go on for a long time. However, my experience is usually that the delays rest at the IOPC end, in terms of responding to those disputes in evidence. Some of the changes will hopefully speed that up, and they are ones that we actually want. I'm quite happy for the IOPC to present their own cases, as long as that is



## HOUSE OF COMMONS

coming out of their budget, because it costs an awful lot of money to run these hearings and I think they unnecessarily run more hearings than are required or necessary, which is why we win so many of them—because our members haven't done anything wrong.

When we ask what is causing the delays—I will give you an example of a case that I dealt with. We successfully argued abuse of process, because there was a seven-year delay. We asked the question, "What were you doing in this time period?" And they couldn't answer. There was just no rational reason for what we were waiting for. That is really difficult, and you cannot get disclosure from the IOPC. I don't think they understand it correctly. In that particular case, once we complained about the treatment—afterwards—it emerged that they had actually had an expert statement right at the very start that completely corroborated what my members were saying. But they didn't declare that to us. They didn't provide it to us; they didn't provide it to the hearing. We had to get one ourselves. But they had it all along. We don't know why they don't disclose things properly. If they did, the case management and these hearings would run a lot more smoothly and we would avoid unnecessary hearings.

**Q40 Ms Abbott:** Thank you. You have referenced the reforms that came in in February, and you think they have the potential to bring about improvements. Is there anything else you want to say about these reforms?

**Phill Matthews:** I think it is slightly early to see whether they have had a true effect, because we were hit with Covid straight after they came in, so a lot of the way we do business has had to change. I think Covid, bizarrely, has actually helped timeliness, because it has forced the IOPC in particular, whose offices are remote from most forces, to gain their witness statements and the information they need via email, video link and so on. That has actually, bizarrely, speeded up the process; it has made it more efficient, which is what we have been asking for for a very long time.

I think there is further to go. I definitely think some teeth need to be added to the 12-month investigation limit. At the moment, that is only, purely, their investigation time. We would like to see it as an end-to-end process time. That 12 months, from the IOPC's perspective, doesn't take into account any CPS waiting, any inquest waiting and any to-ing and fro-ing with the appropriate authority. That's purely when they finish their investigation, so I think, when you look at their statistics, it's actually a lot worse than it shows.

We would like to see some form of teeth added to that, because there is absolutely no incentive for the IOPC, or appropriate authorities for that matter, to actually deal with things promptly and properly—because they don't need to. If there were an incentive, as there is for us when we are investigating offences—you have to get it in front of a hearing within a set period—you would invest the time and money to do that. The IOPC has the resources and staffing of a small shire force. They have a £72 million budget and 1,000 staff—that's bigger than some county forces that are



## HOUSE OF COMMONS

providing the entirety of policing for millions of people. There isn't a problem with their resourcing; it's just how they are using it. I think, if you provide some incentive to them to get these cases dealt with promptly, they will do it, and I think the best way of doing that is to provide some teeth to that legislation: "If you don't get it in front of us within a timely period, you've lost it."

We recognise that there should be some protections for complainants in that, and we would be quite happy with legally qualified chairs having more of a case management role and the ability to say, "Okay, we understand why there is a delay in that case. This one can proceed." I'm perfectly content with that as a happy medium that would ensure that the rights of complainants were actually met. Bizarrely, legally qualified chairs were brought about partly, as Mr Marshall said, at the instigation of staff associations, which were calling for more transparency, yet we seem to see lay members and legally qualified chairs making decisions that don't dismiss officers. They are members of the public, they look at these things, they've got the legal qualifications, and they decide that officers don't need to be dismissed, or that the case needs to be no further actioned, that they haven't done anything wrong. Bizarrely, police chiefs are then wasting public money judicially reviewing those decisions, when it was designed to be more accountable and bring in that independent scrutiny. That just seems bizarre.

There are a lot of things that could be changed, but I think it is a step in the right direction. I think Mr Lockwood, personally, has done a great deal to build trust, certainly with the Federation. He is trying to reform his organisation, but it is the speed of change that we are not content with, and the transparency.

I would like to see some form of audit regime. Forces' professional standards departments are audited by HMIC, to ensure that we are not going off message and not doing something bizarre or strange that is not intended. But there is none of the for the IOPC.

Our members certainly feel like they are treated as though they are guilty, unless we can actually prove they are innocent, from the start. It comes out in some of the press releases we see, and it carries on through whole investigations. I think they need to change a bit of that culture in the way they communicate, which would really assist in getting co-operation from my members.

Q41 **Ms Abbott:** Apart from the culture and the way they communicate, are there any other parts of the system that you think would benefit from reform?

**Phill Matthews:** As Mr Marshall said, the legislation is complex and the guidance is complex and very long. For the uninitiated and those without a wealth of background knowledge about policing, it can be a minefield.

There is a reluctance, and probably risk aversion, from some of their decision makers to dismiss cases that they know, hand on heart, aren't



## HOUSE OF COMMONS

going anywhere. It's much easier for them, because they are not paying for the hearings, they are not paying for the court time, to go, "Ah, we're with you. It's those nasty police who haven't convicted anyone at the hearings, or the courts haven't convicted anyone." It is much easier to pass the buck.

They need some braver decision making. Some of that involves more information to the families. That's something that the previous witnesses alluded to. I don't think they disclose enough to families at an early enough stage. That would aid massively complainants and families understanding the circumstances around the issues.

**Q42 Ms Abbott:** Thank you. Mr Marshall, are there any other areas of the system that need further reform?

**Victor Marshall:** I think there is an opportunity with where we are. There was a report in about 2002, which came from the United States, about the mediation of citizen complaints. It showed that there was greater satisfaction from complainants and, indeed, police officers, where the two actually met when there was a complaint. There was a mediated meeting, which is what there is. With lower level matters there is a greater opportunity to explore that further.

Part of the reforms was the understanding that, in the vast majority of cases, it is not about police officers "misconducting themselves"; not about them behaving in a way described by courts in another regulatory jurisdiction as "serious and reprehensible conduct", which equals misconduct.

Police officers do a very difficult job, often under very difficult circumstances, and they won't always get it right. Sometimes that's about how they do their job. It is not about misconduct; it is about the performance of how they did it. That is about learning but also the performance side of the regulations.

Rather than the reliance all the time on serving notices on officers for "misconduct", I think there is a greater opportunity in the reforms around the practice requiring improvements, around the use of the performance regulations and that side of the business.

If you look at the book "Black Box Thinking" by Matthew Syed, which looks at the airline industry and others—I do not know whether you have seen it—the focus is on how we travel safer as a result of the airline industry learning from its mistakes, rather than being in an adversarial process in which nobody wins. The focus should be on better policing. These reforms—very early stages—have the ability to work, but, as we said earlier about having a shared objective, all the organisations need to get behind this being the right thing to do for policing, so that we quickly identify and get the serious and reprehensible conduct of some police officers out of policing. The vast majority, however, are doing a difficult job under difficult circumstances, and they will not always get it right.



## HOUSE OF COMMONS

There should be more about learning and requiring improvement, rather than focusing on misconduct.

**Ms Abbott:** Use of mediation for lower-level offences is an interesting idea, I must say. Thank you very much.

Q43 **Chair:** I have a couple of follow-up questions. In terms of the way that professional standards departments operate and the way complaints are dealt with within police forces, which do you find better or worse, and what changes would you make to the professional standards departments?

**Victor Marshall:** We get very few actual complaint cases for our members in relation to the engagement of professional standards—we get more internal matters that have been identified. In our experience, professional standards departments are very robust in investigating their own officers. They have a good structure, both in complaint handling and in their anti-corruption commands.

It is also worth mentioning that the other part of the reforms that came in was around police and crime commissioners having the powers to take some of the complaints themselves, with the three models that they could choose to have. Going forward, another area that could be explored is how much local oversight police and crime commissioners should have of the force and how it handles its complaints.

**Phill Matthews:** Yes, I think there is something in allowing police and crime commissioners to get more involved in the system, because they are the ones elected to hold the local force to account. I find that local professional standards departments are more robust. They tend to have better in-depth knowledge particularly of local policies, procedures and training, because they are embedded in those forces. I do not see them as being soft on officers; if anything, they are much harsher, and that is what the statistics will show.

Q44 **Chair:** I am interested in your reference to statistics. What do they show? That would be helpful.

**Phill Matthews:** If you look at the Home Office's own data, about 4,000 internal conduct investigations have been completed. Of those, 192 resulted in officers being dismissed and 400-odd resulted in officers getting sanctions, so about 15% of cases end in some form of outcome, whereas it is about one in 2,000 for a public complaint. As I said, from the nearly 60,000 public complaints that came through, 33 officers were dismissed and only 80 got any form of sanction.

Obviously, a mixture of those are dealt with by professional standards and the IOPC. We have actually asked for better data collection on outcomes and racial disparity, which the Home Office is now doing. We would like more data on the outcomes and who deals with them, because the IOPC does not collect that data and will not be able to give you the statistics on outcomes in the cases it has investigated, which I think is shocking.



## HOUSE OF COMMONS

Q45 **Chair:** Can I ask you the question I asked the earlier panel? How do you think the complaints system deals with race and discrimination issues?

**Phill Matthews:** I think it deals with it quite robustly. I think there is probably a certain nervousness around dealing with it by all investigators, but I think because of that it is dealt with far more robustly. Every i is dotted and every t is crossed in those investigations. They know that those are the ones that are going to gain media attention.

I think there are a lot of socioeconomic reasons for different racial disparities in our society in general. As I said at the start, the police service ends up having to deal with some of the issues caused by socioeconomic problems within society, so it is no wonder that we do have to come into contact with disproportionate numbers of ethnic minorities, but that is a wider societal issue that needs addressing there. I do find it strange that we tend to dwell on the fact that the police service must be racist because of the statistics. I don't see that in my everyday work.

Q46 **Chair:** Do you look at data on patterns of complaints about racism or about discrimination?

**Phill Matthews:** Yes. There is the use of force data and taser data that does record ethnicity. Where it is recorded, there is no difference in the percentage of the different bands of force that are used between the white population and any ethnic minority. It is broadly the same. I don't recognise that.

Q47 **Chair:** Can I ask specifically about the complaints system? Do you look at data? Do you seek out data, and look at it, around complaints of racism or discrimination against police forces and whether there are any patterns in the way that those complaints are investigated? Do you have a sense of the scale of the number of those complaints, for example?

**Phill Matthews:** That data is recorded by professional standards departments. It is now being collated by the Home Office, so that should form part of the next inspection data, which I think is coming out in September of this year. That will now form part of their annual data analysis.

Q48 **Chair:** Have you ever looked at that data? Have you ever looked at an individual force's data on complaints on racism and discrimination?

**Phill Matthews:** Yes, I have looked at my own. I don't have it to hand so I can't quote from it, but there is nothing really to be gained from it, from my perspective.

Q49 **Chair:** What about whether there are different kinds of complaints being made against BME officers? Have you looked at that at all?

**Phill Matthews:** Yes, we have. Not necessarily different types of allegation, but we have had concerns raised by our own members about disparity from within and whether black and minority ethnic officers are more likely to be complained about. What we have found is that the outcomes certainly aren't disproportionate, but that there is a slight



disproportionality in those that enter the system. I think, again, part of that is probably down to the nervousness of managers to tackle the issues, in either way, and the fear of being labelled as racist. It is thrown up to a professional standards department—they pass the potato to them, so to speak, for them to deal with—so we do see a slightly disproportionate referral of BAME staff into the system. However, the outcomes data is not disproportionate in terms of BAME outcomes.

Q50 **Chair:** Mr Marshall, can I ask you those questions?

**Victor Marshall:** In relation to the complaints system, going back to my point earlier about the skill of the investigators whether from a professional standards department or the IOPC, there needs to be a good understanding and proper training to recognise the potential discrimination in actual complaint cases themselves, so that people are not looking necessarily just at what they have, but at a wider context, as Mr Oswald mentioned earlier. As an association, we have had some issues in the past in relation to our BAME members and the number who have been subject to investigation. On the face of it, it is hard to quantify why disproportionately we have more members from our BAME community who are under investigation at any one time. Obviously, that is concerning. Manchester University did some research some years ago about what appeared to be a disproportionality of BAME members being investigated when they are in the police service. Many reasons were put forward for that.

Q51 **Chair:** Have you looked at any data or done any assessment of complaints where the complainant is raising concern about racism or discrimination by an officer? Have you looked at the patterns of any of those sorts of complaints?

**Victor Marshall:** Not so much in terms of public complaints. We have internally, in terms of grievances and things, but not in terms of public complaints.

Q52 **Chair:** Is there a reason why you have not looked at that? Does the data not exist?

**Victor Marshall:** We probably get fewer public complaints for superintendents and chief superintendents, because obviously they are not on the immediate frontline of officers engaging directly with the public, because they are more in senior operational roles.

**Chair:** Thank you. Diane or Tim, do you want to come back in on any points?

Q53 **Ms Abbott:** I was struck by the issue of data in relation to complaints that have a racial component. One of the witnesses talked about the fact that BAME officers were disproportionately put into the system, but actually the outturn was the same in relation to white officers. Surely if BAME officers are disproportionately put into the system, there is an element of subjectivity and discrimination occurring at that point.



## HOUSE OF COMMONS

**Phill Matthews:** Perhaps I did not express myself well enough. There is a report on this that has been done by DCC Phil Cain from West Yorkshire, which is available. It shows that, yes, there is—*[Inaudible.]*

**Chair:** We may have lost you, Mr Matthews. Try that answer again. We missed you for a second.

**Phill Matthews:** I am sorry. There is a report on this that was conducted by DCC Phil Cain from West Yorkshire, and it is publicly available. It showed a slight disproportionality. I haven't got the figures in front of me, but there was a slight disproportionality from referring officers from BAME backgrounds into the conduct system. When I said that there was no difference in outcome, what meant is that we found that more of those are acquitted or found to have done nothing wrong. Where there is wrongdoing, it is wrongdoing, if you know what I mean. The disproportionality is in the initial referrals, rather than whether they proceed to a disproportionate outcome.

**Ms Abbott:** Thank you.

**Phill Matthews:** There is concern about that.

**Chair:** Thank you very much for your time this morning. I repeat the point that I made to the other witnesses. If there are any further points that occur to you that you would like to send us further written evidence on, that would always be extremely welcome. Thank you very much for your time this morning.