

Written evidence submitted by the Independent Office for Police Conduct (IOPC) (PCO0029)

Summary

- Police officers are entrusted with a wide range of functions and powers such as the use of force, arrest and detention of suspects or offenders, as well as entry, search and seizure. Societies need to ensure the police use their powers properly, appropriately and responsibly.
- Building on a body of work over the past five decades since the inception of the Police Complaints Board in 1977 and managing oversight of the largest policing system in the world, the IOPC is recognised as a leading authority on police oversight globally. Now, more than ever, the importance of having a strong police accountability system in place is clear.
- Since the IOPC has been established, we have laid strong foundations to tackle longstanding issues to further strengthen confidence in the police complaints system.
- Police accountability is about more than discipline. Our focus on a more comprehensive accountability system means our work looks not only at the individual, but also at the policies, management strategies, and professional and organisational culture which might have led to adverse incidents or enabled misconduct, driving a more preventative approach.
- Improvements to policing and tackling systemic issues cannot be achieved through individual culpability alone. We have increased our emphasis on learning, not just from individual incidents but from thematic areas to improve the way the police and the police complaints system responds to issues that concern the public.
- We are committed to making sure that those who abuse their powers are investigated and where appropriate, are put before a misconduct panel. However, we also welcome the rebalancing of the complaints system to place increased emphasis on resolving the complaint and refocusing the conduct system on improving police performance. This shift in emphasis is reflected in our new mission.
- We have made significant progress since our establishment in January 2018. Our investigations are more timely, confidence in our organisation has grown, and we have changed local and national policing practice as a result of the learning recommendations from our work. We have also engaged with our policing and community stakeholders to find out what issues were of the most importance to them.

- There remains more to do however, and we have set out in our Strategic Plan how we will further strengthen the organisation and wider complaints system to increase public confidence.
- Most of the Government's reforms to the IOPC and wider system, which came about in response to issues we raised in relation to the previous system, only became effective in February 2020. We have worked with policing bodies and the public to implement the reforms and explain what has changed. The changes to the law and guidance are a welcome step in the right direction but only take us so far.
- This improved framework needs to be supported by cultural change in policing to address issues when they go wrong and learn from mistakes rather than just apportioning blame. It will require a concerted effort from all of the system's stakeholders to make sure change happens and that the full benefits of this new approach are realised.

Background

1. The Independent Office for Police Conduct (IOPC) is a non-departmental public body sponsored by the Home Office. Our statutory duty is to secure and maintain public confidence in the police complaints system. Robust independent oversight of the police is essential for trust in policing and maintaining our model of 'policing by consent'. Our mission recognises this link between independent oversight and public confidence; we aim to improve public confidence in policing by ensuring police officers are accountable for their actions and lessons are learnt.
2. The IOPC is independent of both the police and the government and is charged with investigating the most serious and sensitive complaints and incidents, handling some appeals (reviews) from members of the public unhappy with how the police have dealt with their complaint, as well as setting standards for, and monitoring performance of the complaints system.
3. We have published an ambitious three-year strategic plan focussed on delivering against four priorities:
 - to work with others to improve the police complaints system
 - to improve policing by identifying and sharing learning
 - to improve confidence in police accountability
 - to be an efficient and effective organisation
4. In 2014, the Government began work on transforming the police complaints and disciplinary system to be more transparent, more independent, more

proportionate and less bureaucratic. The Government reforms culminated in the Policing and Crime Act 2017.

5. The Act established the IOPC and we began operation in January 2018, replacing the Independent Police Complaints Commission (IPCC). Changes in the governance structure, including a single line of accountability to the Director General, took immediate effect. However, many of the Government's detailed changes to both the complaints system and the discipline system only came into effect on 1 February 2020 after secondary legislation was enacted.
6. In the interim, we have made significant improvements to timeliness and the quality of our work and increased stakeholder and public confidence. Through insights from the information we collect through our work, and conversations with our communities, we have identified the issues that matter most to the public, like discrimination, the use of taser, or increase in police related road traffic deaths. This work is helping to drive systemic change.
7. Importantly, our staff also support the new direction of the organisation. Our latest staff survey showed significant improvements with many categories exceeding the Civil Service high performing category. Of the 30 categories measured, 21 showed statistically significant improvements and in some cases, there has been a positive shift of nearly 25 per cent. In particular, the question relating to the Director General and Board having a clear vision for the future of the organisation increased by 25 per cent.
8. Our submission outlines our achievements and our future plans to further strengthen the complaints system as well as wider policing going forward.

Areas of IOPC work

9. The IOPC is not responsible for the police disciplinary system. It is the responsibility of the appropriate authority (usually the relevant police force or local policing body) to bring misconduct proceedings regardless of who has carried out an investigation. Since 2016, misconduct hearings have been presided over by Legally Qualified Chairs (LQCs) who are appointed by the relevant local policing body. Further detail setting out the differing systems and the IOPC's role in each is set out in the House of Commons Library paper on police complaints and discipline¹.

Complaints

¹ <https://commonslibrary.parliament.uk/research-briefings/sn02056/>

10. An independent and effective complaints system is essential for securing and maintaining public trust and confidence in the police, and will serve as a fundamental protection against ill-treatment and misconduct.
11. 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. They have:
 - redefined a complaint as any expression of dissatisfaction with a police force, removing the direct link to individual officer/staff conduct
 - replaced multiple appeal rights, each with narrow considerations under the old system, with a single right of review which determines whether a complaint outcome is reasonable and proportionate
 - brought an end to uncertainty for complainants by giving those handling appeals the ability to commission further work when assessing an investigation before issuing their review decision in certain circumstances, speeding up the final resolution of complaints
 - allowed for those carrying out reviews to suggest a remedy. At the conclusion of investigations and reviews the IOPC and Police and Crime Commissioners (PCC) can make specific recommendations to remedy the dissatisfaction expressed by the complainant
12. The majority of complaints against the police are handled locally by the relevant police force. Data for 2018/19 suggests that 48 per cent of all allegations were handled by local resolution and 40 per cent dealt with by local investigation. The increased use of local resolution accords with the refocusing of the complaints system on resolving and addressing systemic issues with forces using a more timely, reasonable and proportionate way to address complaints that do not require a full investigative process.
13. Although we consider it right that the majority of complaints are dealt with at the local level, we have an important role to play in oversight of the system and in ensuring that complaints are being dealt with effectively wherever they are handled. Our oversight team works with police forces and local policing bodies to improve their handling of police complaints.
14. Complaints data collected and published by the IOPC is used to identify areas of concern in the use of police powers, police policies and procedures, the police handling of criminal allegations and the way the police complaints system is working. Our work, alongside that of PCCs, provides assurance that complaints are systematically collected and analysed to identify shortfalls and inform future policing practice.
15. Our oversight work has supported evidence-based interventions which support best practice, greater consistency and alignment to standards. For example, we identified a concern we were not receiving referrals for all incidents that

met the referrals criteria and ran a number of workshops to address this. Since the workshops, the number of referrals increased by seven per cent bringing more of the most serious and sensitive issues into our oversight. We have also supported police forces and PCCs in relation to the recent reforms. As well as publishing statutory guidance to help them comply with their new legal obligations and handle complaints to a higher standard, we also ran 13 events to support police forces and PCCs to better understand the new system. The events were attended by over 400 delegates from across England & Wales. We received positive feedback from delegates such as the quote below:

“I think the staff from the IOPC really represented the organisation well.....the staff were so approachable, friendly, experienced.....knowledgeable, down to earth whilst all being so professional - as a member of the public as well as a practitioner I felt more assured that the IOPC was an organisation that is fair, ethical and that cares about real people. I'm really looking forward to future events.”

Reviews

16. Complainants have a right of review if they do not believe that the outcome of their complaint is reasonable or proportionate. The relevant body to consider a review is determined by the allegations contained within a complaint. Although the IOPC is responsible for considering some reviews relating to local investigations into complaints, the vast majority are now considered by local policing bodies.
17. The Policing and Crime Act 2017 expanded the role of local policing bodies in the police complaints system, giving all of them responsibility for the consideration of reviews for the first time. PCCs also have the option to opt for further responsibilities for complaints handling if they wish, though few have chosen to do so at this time.
18. The number of appeals received continues to decrease reflecting the work that we have carried out with forces and local policing bodies to improve their complaints handling. In 2019/20 we considered approximately 3,000 appeals from members of the public who were unhappy with the way the police had handled their complaint. In many instances, these led to better outcomes for complainants as well as providing us with a good source of intelligence as to how forces are handling matters thereby informing our oversight work.

Investigations

19. We independently investigate a broad range of matters using our own investigators. These include police shootings, deaths in custody, abuse of power for a sexual purpose, corruption, police related road traffic incidents, failure to investigate child sexual abuse or complaints alleging discrimination. The investigation of these issues is critical to public confidence in the police service and an independent evaluation of the evidence capable of finding out what happened and sharing its findings with participants and the public is crucial to securing that confidence.
20. In order to ensure our investigations remain focussed on the issues that matter most to the public and the police, we consulted with our stakeholders to identify a number of thematic areas. We have started to select more cases for independent investigation in the areas where the public and police had most concerns to allow us to consider whether we can identify any systemic learning to help improve policing going forward. Our current thematic areas are domestic abuse, road traffic incidents, abuse of power for a sexual purpose and mental health. In light of the recent Black Lives Matters movement and to address BAME confidence in the police, we have brought forward the launch of our discrimination thematic area. We hope that all of our thematic work will help to improve confidence in policing and the wider system.
21. Many of our investigations are large and complex. In addition to our 'mainstream' investigations function, we also have a separate directorate of major investigations (DMI). This is responsible for our largest and most complex cases, such as Operation Linden, which is looking at police conduct relating to the investigation of allegations of sexual abuse in Rotherham between 1997 and 2013.
22. We are also leading investigation of police conduct following the Hillsborough disaster. This is the biggest criminal investigation into alleged police misconduct ever conducted in England and Wales.
23. Law enforcement bodies across England and Wales are required to refer serious corruption matters to the IOPC. Our anti-corruption unit, which forms part of our DMI, handles covert referrals and oversees cases with police anti-corruption units where they require covert investigation. Since January 2018, we have started over 250 investigations relating to corruption allegations for matters including the abuse of powers for sexual gain, misuse of systems and information, perjury, falsification of events, fraud and drugs supply.
24. The outcomes from our investigations are varied and range from:
 - referral to the CPS
 - a case to answer finding for misconduct
 - Unsatisfactory Performance Procedures (UPP)
 - referral to the Reflective Practice Review Process (RPRP)

- restorative practice
- mediation
- individual, force or national learning recommendations

Many of our investigations are conducted without ever identifying potential breaches of the standards of professional behaviour by police officers. Ensuring people know what happened is also an important aspect of providing public assurance through independent and impartial investigation.

25. We publish summaries for all investigations outlining what happened and our conclusions. We also publish reports about major investigations to provide transparency about our work and the conclusions we have reached. These can all be found on our website.

26. In 2019/20, we received 4,379 referrals from police forces and other bodies under our jurisdiction; we opened 508 independent investigations and closed 718 investigations.

Progress in reforming the complaints system, including speeding up decision making

27. We have made significant improvements since our establishment in January 2018. Our focus has been on clearing longstanding cases, improving timeliness of investigations, strengthening quality, and improving our engagement with stakeholders, communities and those involved in our work.

Improving timeliness

28. In 2019/20 we completed a third of investigations in under six months and 83 per cent of our investigations in under 12 months². This compares with just 68 per cent in 2018/19. We completed 718 independent investigations and reduced our active caseload from 548 to 327. The average age of our active caseload reduced from more than ten months at the start of the year to fewer than nine months by the end of the year.

29. By the end of 2019/20, two thirds of the open caseload were less than six months old; an increase from 50 per cent the previous year. In contrast, the proportion of cases open for longer than 12 months decreased from 24 per cent at the end of 2018/19 to 17 per cent.

² Excluding our most complex cases managed by our Directorate of Major Investigations (DMI)

30. In 19/20, at the end of August, 92 per cent of our investigations were closed within 12 months although increased demand pressures and the challenges of Covid are putting that performance under pressure.
31. Importantly, we have completed 99 per cent of the 538 longer-standing cases we inherited from the IPCC. The three outstanding cases are expected to be completed by the end of this calendar year.
32. We are currently re-designing the way we investigate to make additional improvements to our efficiency and effectiveness. We are working with policing and non-policing partners to identify opportunities to improve our processes and expect to implement changes over the next 12 months.
33. The recent legislative reforms include a requirement for investigative authorities to provide an explanation when an investigation exceeds 12 months. Whilst we think there will always be a limited number of cases that will take longer to investigate, we have set ourselves an ambitious target to complete 85 percent of our investigations within twelve months in the coming year. We will comply with the new requirements in circumstances where we do not meet this.
34. We are aware of views that a time limit should be imposed on investigations. Whilst we recognise the impact that lengthy investigations can have on all of those involved, we do not support the introduction of such a limit. We are not aware of any investigatory body which has a time limit on how long an investigation should take and would also be concerned that this could impact on some very high profile, complex and historic investigations that otherwise would not be possible to complete within 12 months.
35. As well as making significant improvements to overall timeliness, we have also introduced a new commitment that when an investigation is not completed within three months, we will aim to confirm the status of all those involved – whether they are to be considered witnesses or to serve the appropriate misconduct notices. The aim is to give officers early clarity about their status reducing uncertainty.
36. We do not work in isolation and are part of a wider system of accountability. Real gains can only be made within the system if all partners work together. There are many organisations and individuals that can play a role in the end to end investigation process, from police forces to the CPS, coroners, and expert witnesses. Delays can occur in officers attending for interview, the provision of forensic evidence, or in receiving CPS charging decisions and/or awaiting hearing/trial dates.
37. As an example, following a five-month investigation, the IPCC found a case to answer for an officer for gross misconduct in March 2017 and provided its findings to the force. The force agreed to convene a misconduct hearing in

February 2018 and this hearing finally took place in late August 2020. The officer was dismissed on 3 September. In total, the hearing took place more than three years after we had concluded our investigation. Unfortunately, this is not an isolated example. Analysis from our investigations shows that in 2018/19, police forces took more than 12 months from the completion of an investigation to arrange misconduct proceedings in over a third of all cases.

38. Initiatives we have taken to help make improvements across the wider system include:

- proposals to the Ministerial Board on Deaths in Custody on ways to improve timeliness across the end-to-end processes when someone dies during or following police contact
- raising with the National Police Chief Council leads for Professional Standards the need for improvements in scheduling misconduct processes
- developing more effective ways of working with the CPS, focusing on early advice and effective handover of cases to support more timely decision-making
- a Memorandum of Understanding with the Chief Coroner to ensure a better understanding of our respective responsibilities and proposals for a more efficient way of working
- changes to our communications to better reflect the various processes that impact on overall timeliness so that stakeholders better understand the causes of delay

39. Effecting change across all of these areas is not solely within our remit and this may be an area that the Committee wish to explore further during the course of its inquiry.

Strengthening quality

40. In addition to introducing a series of measures to improve our timeliness, we have taken a number of steps to improve and assure ourselves of the quality of our work. We have undertaken a full review of our quality assurance framework and have processes in place to ensure that all of our cases are risk-assessed and subject to regular quality reviews. In addition, we have undertaken and continue to undertake additional work in this area including:

- the introduction of Subject Matter Networks across our key thematic areas. These comprise staff from across our organisation with technical expertise who ensure our work is informed by the latest thinking, practice and guidance in these areas. These networks are now well established and have helped build expertise internally and credibility externally

- the establishment of a multi-disciplinary Critical Case Panel which oversees particularly complex or high-risk cases. This panel ensures cross-organisational support and assurance that work is properly resourced and that risks are identified and mitigated
- work to establish a new Quality Committee, ultimately to be led by an independent chair, to build on existing quality assurance mechanisms and bring further scrutiny to our work
- involving individuals who have been through our investigative processes to get their advice and feedback as to how we can improve them
- further improving our investigator development programme to ensure our staff continue to have the right skills and expertise
- rolling out minimum standards for all our investigations and casework alongside the new quality assurance framework to support frontline supervisors in ensuring the quality of our work

Scrutiny of our work

41. Our work is frequently scrutinised and/or challenged by complainants, families, those subject to investigation and their representatives, as well as other groups and communities who have an interest in our work.
42. We proactively provide information to the media and publish news releases about our cases. Media coverage helps us to raise awareness of our work and can contribute to public confidence in effective police oversight. We also share information via social media, newsletters, reports and publications.
43. Our independent investigations are scrutinised in coronial proceedings, criminal proceedings and misconduct proceedings. In the first two financial years of operation, the work of the IOPC has:
 - provided evidence to assist the coroner in 269 inquests, examining how someone died
 - resulted in 293 misconduct proceedings in areas ranging from abuse of position, inappropriate use of force and failure to investigate
 - resulted in the referral of 131 individuals to the Crown Prosecution Service for a charging decision
 - supported 36 criminal proceedings for offences such as perverting the course of justice, fraud and misconduct in a public office
44. We recognise that the decisions we make in our investigations which do not lead to further proceedings are not routinely subject to further external scrutiny. The primary mechanism for challenging decisions is via a judicial review or, more rarely, a civil claim.
45. In 2019/20, the IOPC was presented with papers for judicial review on 42 occasions, and 21 claims for judicial review were issued. The majority of these

were refused by the Court. Permission was granted on five occasions and of those, the IOPC lost two cases, settled on two and one remains outstanding. The small number of occasions on which permission has been granted, and on which the finding of a substantive hearing has found against us, is a positive indicator of the quality of our original decisions and has helped to clarify areas of uncertainty in the law.

46. We have also developed a variety of methods to provide further scrutiny/challenge of our work including:

- power to reopen investigations – this was something we asked for and now, as a result of the recent reforms, the Director General can determine that a matter that was investigated by (or under the direction of) the IOPC be reinvestigated if there are compelling reasons for doing so. This allows us to re-open investigations without the delay and cost of legal proceedings to quash the original investigation. So far, the IOPC has used this power on two occasions³
- Victims right to review - we are developing a Victims' Right to Review scheme to give complainants and interested parties the right to request a review of our decision not to refer an investigation to the CPS. While not required to have such a scheme, this will help ensure there is no disparity between the rights of a victim who alleges that a crime was committed by a member of the public, and one who alleges that a crime was committed by a person serving with the police. We envisage it will apply to criminal investigations that have been carried out or directed by the IOPC, and it will enable the individual to request that the original decision is reviewed. We expect this to be rolled out in the autumn
- feedback, challenge and complaints mechanism - in January 2019, we launched a new process for dealing with feedback and complaints about us and our staff. We introduced a variety of ways to give service users the opportunity to provide feedback and/or challenge our work, including an opportunity for them to discuss their concerns directly with our staff and to play an active role in the investigation debrief
- External Stakeholder Reference Group - this brings together a range of external stakeholders, both statutory and non-statutory, to challenge and influence our work. The reference group meets quarterly, and membership continues to grow with increased representation from non-policing stakeholders representing community and service user groups with low confidence in the police complaints system. Recently, the group have helped to set our strategic priorities and provided scrutiny to core projects, including work to refocus IOPC investigations, our Learning and Stakeholder Engagement strategies, and how we can better focus our oversight work to improve the police complaints system

³ As at 28 August 2020

- joint scrutiny agreement with the Police Ombudsman for Northern Ireland, the Garda Síochána Ombudsman and the Police Information Review Commissioner - under the terms of this agreement each organisation can request a review of its investigations and decisions

47. Notwithstanding the above, we are always open to considering areas for further scrutiny and challenge. This is a complex area and we need to balance the benefits of any initiative against the potential to add further delay within the system. We continue to give this active consideration.

Impact

48. The impact of our work is demonstrated in different ways. While accountability of individual officers for wrongdoing is important, the greater impact comes from the themes and learning we identify that helps change policing practice and improve policing more broadly. Our role as guardian of the overall police complaints system is also important in building public confidence and ensuring that the system works well for all of those that come into contact with it.
49. Since establishment, the IOPC has had a strong focus on learning, and a clear focus on identifying the root causes when things go wrong. Supervision, clear policies and procedures, training and culture all play a significant role in how an individual is supported to maintain professional standards. Our work has had a strong focus on identifying these issues, resulting in 105 national learning recommendations being made in 2019/20 which have changed policing practice in areas ranging from search warrants, tactical contact to dealing with stalking and harassment cases.
50. Further detail on how our recommendations were responded to and specific examples can be found in our second annual Impact Report that was published on 10 September 2020⁴.
51. This wider view of policing will drive real and systemic change and has already been the subject of positive conversations with organisations such as the College of Policing and the National Police Chiefs Council.
52. Importantly, the public also support this approach, with our research showing that a high proportion of complainants and members of the public want a learning and improvement outcome. When asked the question about what was important/unimportant if a complaint was made about the police, 73 per cent indicated that they considered it very important that police officers learned from their complaint and 70 per cent stated that it was very important that the force involved learned lessons to avoid similar complaints in future⁵. Our Learning Strategy further sets out the way in which we intend to do this and how we intend to capture and share learning from our work⁶.

⁴ https://www.policeconduct.gov.uk/sites/default/files/Documents/Who-we-are/accountability-performance/IOPC_Impact_Report_201920.pdf

⁵ IOPC Public Perceptions Tracker - summary of research for the 2018/19 financial year

⁶ https://policeconduct.gov.uk/sites/default/files/Documents/research-learning/IOPC_Learning_Strategy_April_2020.pdf

53. To ensure that the learning we identify is shared throughout policing, we publish a quarterly magazine called Learning the Lessons. This year we published issues on custody, missing people and young people. Our Youth Panel also helped produce the latter, informed by consultations with over 800 young people across England and Wales.

54. These publications are positively received. Over 8,000 copies are downloaded every year and we are aware that they are frequently used by forces to review local practice. Feedback from respondents has shown the magazine is a helpful tool driving change in policing practice. For example:

“...[Learning the Lessons] helps make our training packages appropriate to the risks and situations that are current... being the lead for custody first aid training it keeps me up to date and informed on the issues and events happening in custody nationally and I adapt my training packages around these topics. Ensuring our Custody Sergeants and Detention Officers get the best, most valid training.”

Confidence in the police complaints system and IOPC

55. We monitor public confidence in the IOPC and the police complaints system through regular online surveys of a nationally representative sample of the population. In addition, we specifically sampled young people and BAME participants. The latest published data is for the 2018/19 financial year⁷ and we will shortly be publishing the 2019/20 results.

56. Our research shows young people and those from BAME communities are more likely to come into contact with the police. These groups are the least likely to complain and have the lowest confidence in the police complaints system. Encouragingly, the latest results show that there has been a 25 per cent increase in public awareness of IOPC in the last 12 months; an 18 per cent increase in young people who are confident complaints are dealt with fairly by the police and a 16 per cent increase in people from BAME backgrounds who are aware of the IOPC.

57. Our work to improve confidence in the complaints system, and the IOPC, particularly amongst those who we know have lower levels of confidence to begin with has included:

- I. Our work with young people

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https://policeconduct.gov.uk/sites/default/files/Documents/statistics/IOPC_public_perceptions_tracker_annual_report_summary_201819.pdf

58. Young people come into contact with the police in many different circumstances and every interaction will have an impact on their confidence in policing. A recent IOPC survey showed only 52 per cent of young people are confident that complaints are dealt with fairly by police, leaving room for further improvement.

59. Young people have told us they were unsure of their rights and were not clear how to raise issues if they were unhappy about the way police had dealt with them. This has provided a clear framework for us to drive change, working together with our youth panel, which we created in 2018.

60. Our youth panel – made up of approximately thirty young people aged 16-25 was created to help us understand the factors that were affecting young people's experience of the police complaints system, and to work with us to help improve this. Since establishment, we have worked with the panel to:

- consult with over 800 young people across England and Wales to listen to their views on the police complaints system and publish a report of their findings, which we are now implementing
- share young people's experience of policing and opportunities to change this at a national conference of police leaders
- influence and inform our investigations and learning outcomes from stop and search
- publish a Learning the Lessons magazine focussed on youth and policing. Separately our stop and search focused magazine included the panel's experiences of stop and search including their 'top tips' for officers which was very well received
- publish a young person's guide to the police complaints system, helping inform young people of their rights (this had approximately 7,000 views on Twitter in the first eight weeks)
- publish a hints and tips for young people and police working together, which has been distributed to 43 police forces and BTP

61. The panel have also assisted with the recruitment process for our Deputy Director General, Operations and Stakeholder Engagement Officers.

62. The youth panel's work found that many young people:

- feel they wouldn't be taken seriously or believed by those in positions of power due to their age and lack of status
- do not trust those in positions of authority, especially the police
- feel they are less likely to be believed and more likely to be discriminated against if they are from marginalised and minority groups

63. We understand the youth panel are considering making a submission to the inquiry about their work.

II. Building confidence with BAME communities

64. Evidence of disproportionality in the use of police powers has long been a concern which impacts on confidence in policing, particularly in BAME communities. Given the numbers and the statistics, from areas such as stop and search and Taser use, we still need to better understand the causes and what can be done to address this. We also know that BAME communities have lower levels of confidence in police, are less likely to make a complaint, and have low awareness of the IOPC.
65. We will shortly be launching race discrimination as a thematic area of focus, which involves independently investigating more cases where racial discrimination may be a factor to develop a body of evidence to identify systemic issues which should be addressed.
66. We know that we only see a small number of cases where discrimination is alleged as the majority of complaints about the police are rightly dealt with by the forces themselves. Our focus on this area will mean that we take on more of these cases as independent investigations to build our evidence base. We will also draw information from relevant cases where we review the police force's handling of the complaint.
67. Initially we will focus on investigating more cases where there is an indication that disproportionality impacts BAME communities, including stop and search and use of force. We will also be investigating more cases where victims from BAME communities have felt unfairly treated by the police. For example, whether the police are treating allegations of hate crime from BAME complainants seriously and where it is alleged the police have not recognised or treated BAME victims of crime as victims.
68. Increasing our focus on investigating cases where racial discrimination may be a factor means we will be able to identify both good and bad practice, and where there are opportunities, to drive real learning and change.
69. Other work we have undertaken to improve BAME confidence in the police complaints system includes:
- involving communities in our work more often (e.g. holding Community Reference Groups when a police incident we are investigating has caused community tensions) and inviting community views on topics such as stop and search
 - involving communities in the development of a number of specific recommendations relating to stop and search
 - undertaking deliberative research to help us understand in more detail the things that drive or influence BAME confidence in the system

- improving the ethnic diversity of our own workforce⁸ by improving recruitment of people from BAME backgrounds
- introducing a volunteering programme which will enable staff to spend time with members of the communities we serve to understand and listen first-hand to what matters to them

III. Stakeholder and service user confidence

70. We are also monitoring confidence levels of our stakeholders and service users.

71. Our stakeholder survey, conducted in 2019, reported better dealings with the IOPC than at any time in the past and this was attributed to 3 areas:

- the IOPC's shift in focus towards learning
- better stakeholder engagement and outreach
- leadership that is listening to stakeholders' concerns and showing an intention to deal with them

72. Examples of specific feedback we received from our stakeholders is as follows:

"...they are taking active strides to listen to feedback, to develop and to become better at what they do." (Police stakeholder).

"They have increased their visibility; their engagement strategy is starting to impact. They're definitely heading in the right direction. I've seen evidence of the shift to learning through case studies and the way in which those are communicated with forces." (Non-police stakeholder).

"The words I would associate with the IOPC? One would be 'dynamic', although I think they would probably be quite shocked at that. But as an organisation we have seen them change quite a lot in a year and actually, from a civil servant's perspective we know how difficult it is for large organisations to change. I'm impressed with the speed of change." (Police accountability stakeholder)

73. User feedback is also important to us and we regularly seek feedback from complainants, families and police officers. We have held listening days with bereaved families to understand their experiences and what is most important to them. We have developed a set of service user standards⁹ in response to the feedback received which clearly set out what can be expected of us in terms of the service we deliver.

⁸ the IOPC is broadly representative of the wider population, with more than 16% of our staff from a BME background however we know that not all of our offices reflect the local communities that they serve

⁹ <https://www.policeconduct.gov.uk/who-we-are/accountability-and-performance/our-service-standards>

74. Our commitment to customer service is supported by our achievement of Customer Service Excellence®¹⁰ in March 2020. The Customer Service Excellence standard tests in depth those areas that research has indicated are a priority for customers. The assessment scored us particularly highly on:

- our focus on service users
- our work with hard to reach and disadvantaged people
- learning being a core part of our organisation

75. The Assessment report stated the following:

“Staff are professional, patient and respectful and showed customers high levels of understanding and empathy. This was not just anecdotal evidence from interviews; assessors listened into some live calls and were impressed with how staff dealt with difficult conversations”

“Staff endeavour to contact and build relationships with hard to reach disadvantaged groups and individuals”

76. There is always more to do to build on these successes.

Our work with individual forces and policing bodies

77. The IOPC has a statutory responsibility for overseeing the police complaints system in England and Wales. In order to fulfil this function, the IOPC has the power to issue guidance on complaints handling and require information from police forces.

78. We publish annual statistics on deaths during or following police contact and we publish information on the handling of police complaints quarterly and annually. Specifically, we work closely with the following:

- police forces and local policing bodies. This is done through our oversight team (see paragraphs 13-15 for more information) and through our Regional Directors who work closely with Chief Constables and PCCs
- Her Majesty’s Inspectorate of Constabulary and the Fire and Rescue Service (HMICFRS) and College of Policing (CoP)

¹⁰ ¹⁰ Customer Service Excellence® is a nationally recognised standard that demonstrates an organisation’s commitment to customer service. There are 57 elements that form the accreditation, which are split across five key criteria; customer insight; the culture of the organisation; information & access; delivery; and timeliness and quality of service.

79. In relation to the latter, our three organisations have distinct yet complementary roles. We are responsible for overseeing the police complaints system and independently investigating individual police complaints and matters that fall under the Police Reform Act 2002; the College of Policing is responsible for setting the standards by which police officers carry out their role and by which their conduct will be judged; and HMICFRS is responsible for carrying out inspections and recommending improvements to the efficiency and or effectiveness of police forces. These roles, and how we work effectively together are set out in a Concordat¹¹. On a practical level, we work closely in relation to the following:

- operation of the super complaints system
- HMICFRS annual PEEL inspections. We identify themes of interest or emerging concerns which informs HMICFRS' work, for example, assessing how forces respond to allegations of discrimination
- following-up specific recommendations - for example, the HMICFRS review of the implementation of recommendations by the MPS arising from Operation Midland
- sharing relevant complaints data ahead of force inspections

The need for the IOPC's new powers, and the reasons for them

80. There have been a number of changes to primary and secondary legislation which have strengthened the powers of the IOPC and intended to make improvements to the wider system. A list of our new powers and key system reforms is contained at Annex 1.

81. There are five key new powers for the IOPC:

- power of initiative
- power to re-open investigations
- power to present at misconduct hearings
- power to make recommendations to remedy dissatisfaction expressed by a complainant at the conclusion of investigations and reviews.
- power to direct investigations

82. We believe that all of these will impact positively on public confidence in our organisation, particularly those which strengthen our role and independence. Our new power of initiative for example means that we are now able to treat a matter as though it has been referred (without a referral from a police force) where issues of concern come to our attention. This allows us to swiftly bring independent oversight to the consideration of the available information in these

¹¹ <https://www.justiceinspectors.gov.uk/hmicfrs/wp-content/uploads/concordat-between-hmicfrs-college-of-policing-and-iopc-accessible.pdf>

incidents and determine whether it was necessary to investigate and what form the investigation should take. To date, we have used this new power on three occasions.

83. We also hope that these powers will lead to better outcomes for service users. Our ability to re-open investigations if new evidence comes to light and to be able to recommend a specific remedy for a complaint, rather than simply determining whether a complaint is upheld or not and whether an officer breached the standards of professional behaviour are examples of how better outcomes will be delivered.
84. We support the overarching aims of the reforms - making the complaints and discipline system more transparent, more independent, more proportionate and less bureaucratic.
85. We also support complaints being dealt with at an appropriate level that allows the complainant's concerns to be addressed, rather than taking all complaints through a more formal regulated complaints process regardless of the nature of the complaint or what the complainant wants.

Further improvements required

86. It is our view that, as the legislative reforms are embedded, we will see a stronger focus on police forces driving change through reflective practice and review. While the legislative changes are a step in the right direction, we also feel they only take us so far and other improvements could be made to enhance the system further.

A more open and constructive approach

87. The latest reforms need to be supported by cultural change in policing to ensure that issues are addressed when they go wrong and mistakes are learnt from. All players across the system have a role to play in this and we would like to see more emphasis on how forces, PCCs and other policing bodies are reviewing and responding to the root causes of the matters which they deal with. This would reinforce the learning approach and reduce the risk of misconduct/mistakes happening in the first place, thereby improving public confidence.

A wider system approach to end to end timeliness

88. The current system is at times adversarial. Legal arguments, a reluctance, at times, to cooperate and slow provision of information are all factors which can impede the progress of an investigation. Similarly, for those families and officers that are awaiting an outcome, they are interested in getting to the place where all relevant proceedings are complete including any

misconduct/criminal processes that follow from our investigations as soon as possible. There must therefore be a multi-agency approach to improving the end-to-end timeliness of investigations.

Consistency

89. While the IOPC plays a central role in ensuring that officers are held to account for poor conduct and can direct that they appear at disciplinary proceedings, other bodies are responsible for making the final decisions on whether this is proven and what sanction, if any, they should face.
90. The IOPC and disciplinary panels will not always reach the same conclusion on analysis of what is sometimes a complex set of evidence and where different legal thresholds apply. We have been surprised at some decisions that have been made and given the link to public confidence, suggest there may be merit in a broader review of whether:
- decision-making by panels is suitably consistent, and in line with the College of Policing's guidance on outcomes in police misconduct proceedings
 - decisions made by panels, and the rationale for them, are adequately transparent and being communicated effectively to the public

Supporting complainants

91. Effective police oversight requires more than just a complaint system. Complainants, especially victims/survivors of family violence and other vulnerable groups, need support to assist them through the system particularly as for many, their first point of contact is when they are at their most vulnerable and often not trusting of authority. The complexity of the legislative and policy frameworks within which the complaints system operates can also make the system difficult for complainants to navigate and understand.
92. It is our view that complainants should be offered appropriate assistance to make complaints, be referred to independent professional advice and be better supported through the complaints process. We therefore support the establishment of an independent advocacy service specifically for the police complaints system similar to the Patient Advice and Liaison Service (PALS) in most hospitals. We are developing proposals for consideration by the Home Office. We would welcome the Committee's support for this initiative.
93. In addition, we support the availability of non-means tested legal aid as it would guarantee that families are better supported from the outset and reduce the burden of what many see as a lengthy and challenging application process. We also support, more generally, free legal representation for families where there has been a death following police contact to allow them to participate meaningfully in the inquest process. We are aware of families having to crowd-fund to participate in these processes and this is not acceptable. Only by achieving an equality of arms will we really be able to ensure that the system works effectively for all those that come into contact

with it and that the best outcomes, particularly in terms of learning for the future, can be delivered.

Measures of success

94. The complex nature of our work means there are inherent difficulties in measuring success. For example, it is possible for an investigation that is both independent and effective, but because it does not deliver the result a complainant or family wants, to be regarded as a whitewash.
95. For the family of someone shot dead by a police officer, the only justice they may recognise is a prosecution whatever the evidence. Whereas for others, a 'just' outcome may be no investigation at all – whether the evidence justifies it or not.
96. In many cases, our work is presented to coroners, prosecutors, courts and is tested time and time again. We can only work with evidence and the nature of our work means that at least one party is likely to be unhappy with the outcome of an investigation. All parties being satisfied cannot therefore be viewed as the measure of success, nor can the number of prosecutions, convictions or dismissals.
97. A true assessment of the police complaints system needs to take into account many factors and consider the key drivers of public confidence, many of which do not rest with the IOPC. There may be some merit in exploring how data on timeliness, outcomes of proceedings and the impact of learning and improvement, which is held by multiple agencies, could be reported to the community in a more meaningful way to provide this assurance.
98. It is important to recognise that it will take all of the partners in the system working together to make long-term improvements. We are keen to continue working with others – including police forces, staff associations, the CPS and the Home Office in a respectful way – to consider what further changes are needed.

September 2020

Annex 1 – Key changes to the powers and role of the IOPC

Key changes to the powers and role of the IOPC		
Power	Legislation	Explanation
Power to Direct investigations	Paragraph 18, Schedule 3, Police Reform Act 2002	<p>Directed investigations replace Managed and Supervised investigations as a class. Directed investigations give the IOPC greater direction and control over police resources. Directed investigations are to be used in circumstances where the IOPC is unable to provide specialist resources, such as covert investigations.</p> <p>We agree with the government’s policy intention in this area. Managed and supervised investigations were confusing to the public, and their abolition brings greater clarity regarding responsibility for investigations.</p> <p>Directed investigations are a necessary alternative to independent investigations in situations where the use of specialist resources the IOPC cannot provide are required.</p>
Power of Initiative	Paragraph 4A, 13A, 14CA Schedule 3, Police Reform Act 2002	<p>The power to treat something as though it has been referred allows the IOPC to consider whether we need to investigate something without waiting for a police referral.</p> <p>The introduction of the power of initiative brings us in line with other police oversight bodies in the United Kingdom (Police Ombudsman for Northern Ireland) who have this power. More importantly, we think as a matter of principle, it is right that the IOPC, as the body tasked with overseeing the police complaints system, does not need to wait for a referral from the bodies it oversees in order to begin an investigation.</p>
Duty to investigate complaints, conduct, and DSI matters relating to chief constables	Paragraph 5 and 14, Schedule 3, Police Reform Act 2002 Regulation 5, 8 and 10 of the	Places a duty on the IOPC to investigate (either via independent or directed investigation) all complaints where there is an indication that the Chief Constable has committed a criminal offence or behaved in a way which would bring misconduct proceedings, all conduct matters and all DSI matters relating to Chief Constables (and the Deputy Commissioner of the Metropolitan Police)

	Police (Complaints and misconduct) Regulations 2020	We recognise the Government's policy intent in these provisions; to bring greater independence and transparency to the investigation of complaints and conduct matters relating to Chief Constables. However, LPB's have raised to us, and we have discussed with the Home Office our concerns regarding the operational reality of provisions as they stand.
Duty to co-operate	Schedule 2, Police (conduct) Regulations 2020	<p>Sets out the expectations on police officers that they will co-operate with investigations, and provides for non co-operation to be considered misconduct. These provisions do not alter a subject's right to silence in criminal and misconduct interview.</p> <p>We believe public confidence is served by police witnesses giving a prompt and thorough account in adverse incidents, complaints and conduct matters. The Review of the IPCC's Work in Investigating Deaths set out its expectations of police witnesses. We welcome those expectations being placed on a statutory footing, with potential consequences for those who refuse to engage appropriately with accountability mechanisms.</p> <p>The IOPC has produced guidance for police witnesses which set out what police witnesses can expect of the IOPC, and IOPC expectations of police witnesses.</p>
Power to re-open investigations	Paragraph 13B, Schedule 3, Police Reform Act Part 2,	<p>Gives the IOPC the power to re-open investigations when there are compelling reasons to do so.</p> <p>This power brings legal certainty to the question whether the IOPC was able to re-open investigations and prevents the need to bring a judicial review. We welcome the removal of this expensive, bureaucratic and time consuming means of re-opening cases where there are strong reasons to do so.</p>
Power to suggest remedy	Paragraph 28ZA, schedule 3, Police Reform Act 2002	Gives the IOPC and local policing bodies (LPBs) the power to make recommendations to the appropriate authority (AA) with the view to remedy dissatisfaction expressed by a complainant. The IOPC may use this power when we uphold a review or at the conclusion of

	<p>Regulation 30 Police (complaints and Misconduct) Regulations 2020</p>	<p>an independent or directed investigation of a complaint. LPBs may use this power when they uphold a review or following the investigation of a complaint for which they are the AA. The power is only applicable when handling complaints. Examples of the kinds of recommendations that could be made include:</p> <ol style="list-style-type: none"> 1. A recommendation that an apology or explanation is given to the complainant 2. A recommendation that property seized from the complainant be returned to them. 3. A recommendation that formal or informal mediation or another meeting with the aim of resolving the dissatisfaction, is arranged with the AA and complainant. 4. A recommendation that evidence of learning or service improvement is provided to the complainant where learning or improvements came about as a result of the complaint, 5. A recommendation that information regarding the emotional impact on an officer or police staff member of the relevant incident is provided to the complainant from existing documentation, a new document, or in a meeting. 6. A recommendation that a service improvement meeting is held between the AA, the complainant and any other suitable attendee (such as improvement lead or force subject specialist). 7. A recommendation to review information held about the complainant on police records/databases, with a view to removing or correcting inaccurate information. 8. A recommendation to review whether a caution was issued in compliance with Ministry of Justice guidance, with a view to considering whether a caution should be expunged, in line with any internal policy. <p>The IPCC had long called for the complaints system to be better focussed on resolving complaints rather than simply apportioning blame. We welcome the improved ability this gives</p>
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		us to facilitate a remedy to a complaint, rather than simply determining whether an officer breached the standards of professional behaviour and/or whether the complaint is upheld.
Power to present at misconduct hearings	Police (Conduct) Regulations 2020	<p>the IOPC has the discretion to present cases at misconduct hearings in certain circumstances for the first time.</p> <p>The IOPC has the discretion to present cases in the following circumstances:</p> <ul style="list-style-type: none"> • The appropriate authority disagreed with the Director General as to whether there is a case to answer when its views were sought under paragraph 23(5A)(a)(i) of Schedule 3 (directed and independent investigations), • The appropriate authority under paragraph 25(4D)(a) of Schedule 3 did not accept the recommendation of the Director General as to whether there is a case to answer (local investigations) • That the appropriate authority and the Director General agree that the Director General should present the case • The Director General is of the view that there is compelling public interest for the Director General to present the case. <p>We agree that, in those cases where the AA do not agree with our determinations, public confidence in the police complaints system is best served by the IOPC presenting its case. It is right that, in those cases where there is a compelling public interest, the IOPC can present.</p> <p>As the power to present only applies in matters that came to the attention of the appropriate authority on or after 1 February 2020, we are yet to present our first case.</p>
Simplified post-investigation decision making	Amendments to Paragraph 23, Schedule 3 Police Reform Act 2002	The changes brought about by the Policing and Crime Act 2017 have removed bureaucracy and delay in post investigation decision making. Legislation no longer sets out a prolonged consultation process with the Appropriate Authority before the IOPC can make a direction. At the end of an investigation the IOPC will seek the views of the Appropriate Authority and then make a final decision regarding whether there is a case to answer for

		misconduct, unsatisfactory performance or referral to misconduct proceedings.
Ability to commission further work when assessing reviews of an investigation	Section 15, Police Reform Act 2002	<p>Where the IOPC finds that further investigative steps are needed to address a complaint during a review, the IOPC can (in some circumstances) request that the force carry out those steps before the IOPC makes a decision on the review.</p> <p>We welcome this change as it prevents some of the circumstances in which the IOPC would previously have had to direct a re-investigation before consideration of a fresh appeal (sometimes termed the complaints merry go round) and allows for a quicker final resolution to the complaint.</p>