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Susan Hall AM
Chairman, Police and Crime Committee
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By Email to: lauren.harvey@london.gov.uk; janette.roker@london.gov.uk;
Philippa.Goffe@london.gov.uk

Dear Susan,

Further to my appearance at the Police and Crime Committee evidence session alongside Amanda Rowe on 22 June, I am pleased to provide the following further information in answer to your requests and some clarification in relation to questions regarding the case to answer test and directed hearings.

Further information on the number of referrals for the Metropolitan Police Service (MPS) that are received, including how the figure is calculated, and how it is compared against other forces

Our Police Complaints Bulletins provide figures for the number of referrals to the IOPC, and their disposal. The Q2 bulletin for 2021/22 was the last bulletin produced. This shows:

Reporting Period: 01 April 2021 to 30 September 2021

Section C: Referrals

	Force	Force %	MSF Average	MSF Average %	National	National %
Number referrals received	482		204		2,503	
Number referrals completed	484		204		2,485	
Decision: Independent Investigation	53	11%	24	12%	231	9%
Decision: Directed Investigation	0	0%	1	1%	20	1%
Decision: Local Investigation	316	65%	125	56%	1,425	57%
Decision: Return to Force	113	23%	54	30%	798	32%
Decision: Invalid	2	0%	1	1%	7	0%

The Bulletins show a comparison of the referrals with an average of the Most Similar Groups (MSG – referred to in the table as MSF) as identified by HMICFRS. In the case of the Metropolitan Police Service, the MSG comprises West Midlands, Greater Manchester and West Yorkshire.

We calculate referrals using the number of referral forms received. A referral requires us to consider whether the matter requires investigation and, if so make a mode of investigation (MOI) decision under the Police Reform Act 2002. Matters referred out of hours are still subject to paper referral following the initial out of hours contact. All matters are entered onto our case management system from which our count is calculated. Using the referral, we either create a new case, or update a previous case where the referral relates to the same matter. Where a matter is re-referred to the IOPC, this also requires us to make an MOI decision and therefore counts as an additional referral. Referrals exclude matters where the IOPC has used its power of initiative to begin investigating a matter; but includes matters where we have used our power to call a matter in.

Quarter four bulletins for 2021/22 are currently in production and will be published in due course. The Q4 bulletin will show the Metropolitan Police Service referral figures for the full financial year alongside an average of the Most Similar Group.

Whether the IOPC would consider providing the PCC with an annual report on the areas for which it is responsible;

I recognise the Police and Crime Committee would welcome more information on the work of the IOPC and the functioning of the police complaints system in relation to the Metropolitan Police Service to assist them in holding the MPS and MOPAC to account.

I meet regularly with the Deputy Mayor for Policing and Crime and we provide significant information to the MOPAC to support them in their oversight role and holding the Commissioner to account. For example, the Mayor's Office is sighted on relevant press announcements and reports made by the IOPC; informed of recommendations issued under our statutory powers. We also support the Mayor's Office to carry out their functions as a relevant review body for certain police complaints through our oversight function.

As we have outlined to the Committee, we publish detailed information about the handling of public complaints in our police complaints statistics and in our quarterly force bulletins. Whilst the introduction of changes to the police complaints system in 2020 has interrupted the publication of our bulletins, it is our intention to return to quarterly reporting this financial year. We also regularly publish press releases, case summaries, reports and learning recommendations relating to our MPS investigations or casework on our website.

The IOPC operates across an English and Welsh jurisdiction, covering the 43 Home Office Police forces, non Home-Office forces (such as the British Transport Police), the National Crime Agency and other bodies. We are accountable to Parliament and our Annual Report and Accounts are laid before Parliament by the Secretary of State for the Home Department each year. In addition to this, we also produce an Impact Report to demonstrate the difference our work has made throughout the previous year; annual Deaths During or Following Police Contact Statistics for England and Wales; quarterly Learning the Lessons magazines focussing on learning from our cases, practitioner perspectives and academic insights, and periodic editions of Focus, our publication to assist police complaints practitioners in handling complaints. These publications are all available on our website.

The creation of a bespoke annual report for the Committee would have significant resource implications for the IOPC; particularly as it would likely lead to other scrutiny panels and Local Policing Bodies making similar requests.

Given our jurisdiction, the information we already publish in relation to our work, and the impact on resources, we cannot agree to provide an annual report to the Committee on our functions. However, I have considered what we could do to improve the information available

to the committee and we would be happy to:

- brief the Committee in private upon publication of the police complaints statistics and
- ensure the Police and Crime Committee members are sighted on the latest IOPC press releases and publications relating to the MPS.

We will be happy to discuss how best to achieve this.

A copy of the process that is followed when the IOPC decides to reopen cases:

We have outlined the process we follow when we re-open our investigations on our website. This information is available here:

[Our service - complaints, compliments and how to challenge our decisions | Independent Office for Police Conduct](#)

Further information on the Case to Answer Test:

Committee members were interested in the case to answer test and the extent to which determinations at the conclusion of investigations differed to findings in misconduct proceedings.

The IOPC has supplied the Committee with data on outcomes from misconduct proceedings. These show that in the financial year 2021/22, 72% of MPS misconduct proceedings brought following an IOPC independent investigation found misconduct or gross misconduct proven.

The case to answer test is a universal test applied by both appropriate authorities and IOPC. The Metropolitan Police Service applies the same test to its decisions as the IOPC.

The test is explained in the Home Office Guidance: Conduct, Efficiency, and Effectiveness: Statutory Guidance on Professional Standards, Performance and Integrity in Policing.¹

8.77:

“... the Director General (or persons acting on the Director General’s behalf) or the appropriate authority decision maker must determine whether there is a case to answer based on whether:

there is sufficient evidence, upon which a reasonable misconduct meeting or a reasonable disciplinary hearing panel could properly find misconduct or gross misconduct proven on the balance of probabilities.”

This is the standard that must be applied following completion of an investigation, where conduct is under investigation. This standard is different to the standard applied by misconduct panels, which is also explained in the Home Office Guidance:

9.10 Standard of Proof:

“In deciding matters of fact, the persons conducting the misconduct meeting or hearing must apply the standard of proof required in civil cases, that is, the balance of probabilities. Conduct will be proved on the balance of probabilities if the persons conducting the meeting or hearing are satisfied by the evidence that it is more likely than not that the conduct

¹ [Home_Office_Statutory_Guidance_0502.pdf \(publishing.service.gov.uk\)](#)

occurred. The balance of probabilities is a single unvarying standard (i.e. there is no sliding scale). The seriousness of the allegation of misconduct and/or the seriousness of the consequences for the officer do not require a different standard of proof, merely appropriately careful consideration by the panel before it is satisfied of the matter which has to be established. The inherent probability or improbability of the conduct occurring is itself a matter to be taken into account when deciding whether, on the balance of probabilities, the conduct occurred.”

11.120

“The chair and panel may decide during the course of the hearing (that is to say before proceedings are finished) that there is no case to answer in respect of misconduct or gross misconduct. The Regulations are silent on this point. There is precedent in case law for a decision to be made. In making this decision, the chair with the panel will need to have regard to its role in law to consider the evidence and hear the case at least in part presented at the hearing. It is not for the panel to re-make the case to answer decision of the appropriate authority, Director General or other decision-maker. In cases where the Director General is presenting, the chair should consult the Director General (or person acting on their behalf).”

Police and Crime Committee members may find Chapter 8 particularly helpful in explaining the background to, and application of the case to answer test.

Further explanation in relation to “Directed” misconduct hearings:

As part of their consideration of misconduct matters, committee members discussed directed hearings. Before the Police and Crime Act 2017 brought about changes to the Police Reform Act 2002, the IPCC and IOPC used to follow a lengthy process to “direct” misconduct proceedings where the Appropriate Authority (AA) did not agree with the IPCC/IOPCs opinion on whether there was a case to answer.

In February 2020, the 2017 changes were commenced. These made the IOPCs opinion regarding whether there was a case to answer binding on Chief Constables following consultation with the AA. The IOPC therefore no longer follows a process where it “recommends” and then “directs” hearings where the complaint or conduct matter came to the attention of the AA after February 2020, and the AA disagrees with the IOPC’s determination; all misconduct proceedings brought following IOPC investigations are “directed” by the IOPC under paragraph 23 (5A) Schedule 3 of the Police Reform Act 2002, but this no longer indicates disagreement between the AA and the IOPC over whether proceedings should be brought or what form they should take.

Changes to regulations in February 2020, pursuant to the 2017 changes also allowed for the IOPC to present at misconduct hearings for the first time where:

- the appropriate authority disagrees proceedings must occur;
- we and the AA agree we should present a case;
- exceptionally, where we believe our presenting is in the public interest.

We have determined we will present at misconduct hearings relating to four Metropolitan Police Service cases:

- a complaint referral in Feb 2021 relating to the Tasing of a 10 year old girl in south London the previous month. Our investigation into this incident concluded in November 2021 and we found a Metropolitan Police Service (MPS) officer had a case to answer for gross misconduct for their use of force.

- A driver who complained in May 2020 he was racially profiled during a stop and search in London.
- A case involving a stop and search of a woman in May 2020 in London in which force was used and which led to a strip search.
- A misconduct hearing for five officers following our investigation into the stop and search of athletes Bianca Williams and Ricardo dos Santos.

An explanation of the IOPC investigator training programme:

An explanation of the IOPC investigator training programme is contained at Annex A.

I do hope our appearance on the 22 June and this supplementary information has assisted you in understanding some of our work in relation to the Metropolitan Police Service and more broadly. Please do not hesitate to get in touch if I can be of further assistance.

Yours sincerely,



Sal Naseem
Regional Director for London
Independent Office for Police Conduct

Investigator development programme

The IOPC Investigator development programme consists of either a 9 or 12-week training programme. We have two training programmes, Trainee and Direct Entry (G10 and G11). Each training programme is designed to broadly reflect the 70:20:10 learning model, stressing the importance of practical experience and social learning to consolidate periods of formal training. Formal training programmes are in addition to workplace assessment and accreditation.

Core training programmes cover key aspects of the role, including powers of an IOPC investigator, interviewing skills, scene management, post incident procedures, principles of disclosure and report writing. Lead Investigators receive additional training covering all aspects of leading an investigation including strategy, decision making and policy writing. A full list of the core training programmes can be found within **Annex 1 and 2**.

BTEC Level 5 Professional Certificate in IOPC Investigations/Diploma in Leading IOPC Investigations

The BTEC Level 5 qualifications are bespoke qualifications developed for the IOPC and awarded by Pearson, the UK's largest Awarding Body.

It is a mandatory requirement for all operational investigators to achieve accreditation and provides the opportunity to:

- Develop and apply knowledge of key legislation and procedures governing the police misconduct system and investigation of criminal offences.
- Demonstrate core investigative skills required to conduct an investigation
- Develop knowledge of the processes and investigative principles followed in respect of referrals from the police and other agencies under the remit of the IOPC

- Develop the knowledge and skills required to lead IOPC investigations (**Diploma only**)

A full list of the qualification units can be found at **Annex 3**

Investigative pathway

Investigators and Trainee Investigators are registered onto the BTEC Level 5 Professional Certificate and expected to complete within 18 months.

Lead Investigators are registered onto the BTEC Level 5 Professional Diploma in Leading Investigations and expected to complete within 24 months.

To achieve accreditation, investigators are required to demonstrate their knowledge and practical application, through a work-based portfolio of evidence.

Continuous Professional Development (CPD)

Continuous Professional Development (CPD) is an ongoing process. CPD activities include experiential visits to relevant police units, external speakers, and national training events, identified in line with organisational requirements.

Investigators are also responsible for their own continuing professional development and maintaining competence as applicable to their role. Personal and professional development is supported by the organisation's personal performance and development process *Drive*.

Annex 1



Trainee Investigators Curriculum (Core Training)

The core training programme consists of the following units for all trainee investigators

BLOCK 1	BLOCK 2	BLOCK 3	BLOCK 4
Resilience training	Exhibit Management and Forensic Awareness	Scene Management	Welcome to Accreditation
Stakeholder Engagement Management	National Decision Model and use of force	Investigating deaths	
Recording, referrals, Types/Modes of Investigation	Introduction to Holmes	Road Traffic Incidents	
Powers and Obtaining Evidence	Disclosure	Firearms	
Basic Exhibits/CCTV	Relevant Law	Post Incident Procedures	
Police Misconduct	Discrimination	Death in Custody	
Document Management, Actions, Policies	Intelligence	Digital Investigations	
Witness interviewing and Statements	Subject interviewing	Conflict management	
		Risk Management	
		APSP (Abuse of Position for Sexual Purpose)	
		Concluding an investigation	
		Final Reports	

Annex 2**Investigators Curriculum (Core Training)**

The core training programme consists of the following units for all Investigators and Lead Investigators:

Induction	
	Resilience
	Stakeholder Engagement
	Safeguarding
Week 1	
	Recording, Referrals, Types/Modes of Inv
	Powers and Obtaining Evidence
	Police Misconduct
	Systems and Processes Document Management, Action and Policies
	Investigating Deaths
Week 2	
	Disclosure Workshop
	Discrimination
	Risk Management
	Conflict Management
	Police Federation
Week 3	
	Leading Investigations - Consisting of a 4-day real time serious incident focusing on strategy, decision making and policy writing; in addition to role play with a bereaved parent.
Week 4	
	Witness Interview Theory
	Witness Interviewing Practical Workshops (2 days)
	Welcome to Accreditation
Week 5	
	Exhibits Management and Forensic Awareness (2 days)
	Scene Management (3 days)
Week 6	
	Subject Interviewing (5 days)
Week 7	
	Final Reports
	Concluding Investigations

Annex 3

2021/22 (BTEC Level 5 qualifications)



The BTEC Level 5 qualifications consists of the following units:

UNIT 1	UNIT 2	UNIT 3 CERTIFICATE (Units 1-3)	UNIT 4 DIPLOMA (Units 1-4)
INVESTIGATIONS LEGAL KNOWLEDGE	INVESTIGATION SKILLS	INVESTIGATION PROCESSES & PRINCIPLES	LEADING INVESTIGATIONS (Lead Inv only)
1.1 Police Misconduct system	2.1 Exhibits Handling	3.1 Referral process	4.1 Plan IOPC investigations
1.2 Criminal offences	2.2 Witness Interviews	3.2 Agencies within remit of IOPC	4.2 Manage and Lead IOPC investigations
1.3 Key Evidential Principles	2.3 Subject Interviews	3.3 Equality Act 2010/ investigating discriminatory behaviour	4.3 Communicate effectively during IOPC investigations
1.4 Court processes	2.4 Disclosure	3.4 National Decision Model/ Police Code of Ethics	4.4 Conclude and manage outcome of IOPC investigations
1.5 Human Rights	2.5 Scene Management		
1.6 Police Powers	2.6 Evidential opportunities (CCTV, digital, H2H, witness appeals)		