



Handling of Conduct Complaints

STANDARD OPERATING PROCEDURE (SOP)

STANDARD OPERATING PROCEDURE			
REFERENCE.	SOP/144/08		
PROTECTIVE MARKING	NOT PROTECTIVELY MARKED		
PORTFOLIO	DCC		
OWNER	PSD		
START DATE	1 December 2008		
REVIEW DATE	1 December 2010		
THIS POLICY REPLACES:	D55840 to D55855, D59280 & D59540		
VERSION	DATE	REASON FOR AMENDMENT	AMENDED BY
1.0	1 Dec 2008	Update and consolidation	D/Supt AM Gent



CONTENTS

1	INTRODUCTION	3
2	KNOWLEDGE	3
2.1	Terms and Definitions.....	3
3	PROCEDURES	6
3.1	Recording and Reporting – Guiding Principles.....	6
3.2	Initial Action by Area or Department.....	7
3.3	Recording Forms – DC01	8
3.4	Independent Police Complaints Commission Leaflet and Guidance	9
3.5	Responsibility of the Manager or Supervisor	10
3.6	Allegations against Officers from another Force.....	11
3.7	Complainants under the Influence of Alcohol or Drugs	12
3.8	Persons in Custody	12
3.9	Clarification of Complaints.....	12
3.10	Complaints involving multiple Areas or Departments	13
3.11	Serious Allegations and Mandatory Referral to the IPCC.....	14
3.12	Local Resolution	15
3.15	Formal Investigation – Initial Action	20
3.17	Role of Control Rooms and the MICC	23
3.18	Complaints against Chief Officers	24
3.19	Rights of Employees Subject of Complaint.....	24
3.20	Role of Professional Standards	25
3.21	IPCC Complaint Categories	26
3.22	Diversity Impact Assessment	30
4	MONITORING AND COMPLIANCE	30
5	APPENDICES	31



1 INTRODUCTION

- 1.1 This procedure effects and is subject to the conditions of policy [145/08].
- 1.2 This procedure applies to England, Wales and Scotland
- 1.3 This procedure applies to all police officers and police staff.

2 KNOWLEDGE

2.1 Terms and Definitions

2.1.1 Definition of a Conduct Complaint - Any complaint about the *conduct* of a *person serving with the police* which is made (whether in writing or otherwise) by-

- a member of the public who claims to be the person in relation to whom the conduct took place; (*directly affected*)
- a member of the public who claims to have been *adversely affected* by the conduct;
- a member of the public who claims to have *witnessed* the conduct;
- a person acting on behalf of a person falling within any of paragraphs above.

2.1.2 For the purposes of this procedure, '*conduct*' may be about, for example, behaviour, inappropriate language, actions or omissions. In some cases, it may be about an allegation of criminal behaviour.

2.1.3 '*Person serving with the police*' is defined by the Act as:

- a member of a police force; (officers)
- an employee of a police authority who is under the direction and control of a chief officer; (police staff) or
- a special constable who is under the direction and control of a chief officer



- 2.1.4 '*Adversely affected*' is broadly interpreted in the legislation and includes distress, inconvenience, loss or damage, or being put in danger or at risk. This might apply, for example, to other people present at the incident or to the parent of a child or young person or a friend of the person directly affected. It does not include someone distressed by watching an incident on television.
- 2.1.5 '*Witness*' has a narrow interpretation. A witness is defined as someone who "acquired his knowledge of that conduct in a manner which would make him a competent witness capable of giving admissible evidence of that conduct in criminal proceedings" and includes someone in possession of material evidence.
- 2.1.6 A person '*acting on behalf*' of a person can only do so if they have the written consent of the member of public who is directly affect, adversely affect or is a witness to the alleged conduct. For example, this can be friends, relatives, solicitors or Members of Parliament. In cases of representation by solicitors or MPs, care needs to be taken in relation to demanding evidence of consent, as this normally should be taken for granted.

2.2 Complaints by police

- 2.2.1 Own Force - Police officers and staff members cannot make a complaint against a member of their own force or another force (arising from their own operational duty). They should raise concerns through management channels and have a general responsibility to do so. Managers should then consider whether to record their concerns as a conduct matter as opposed to public complaint.
- 2.2.2 Another Force - If the officer or staff member affected by the conduct was off-duty at the time they can make a complaint against a member of another police force.



2.2.3 Former Members - A former police officer or police staff member (who has retired, resigned or been dismissed from a police force) cannot make a complaint about someone in relation to an incident that happened during the time they worked in that force.

2.3 Responsibilities

2.3.1 The Chief Constable and the Police Authority are responsible for the implementation of this BTP policy and procedure.

2.3.2 It is the responsibility of the Area Commander or Department Head, or person acting with the delegated authority of the above who receives a conduct complaint, to notify PSD to enable the complaint to be properly recorded.

2.3.3 The responsibility for local resolution of the complaint will lie with the Area Commander or Department Head or person acting with the delegated authority of the above. This person will ensure that the resolution is carried out in a timely fashion and that the outcomes are promulgated appropriately.

2.3.4 All managers are responsible for ensuring that:

- The policy is effectively communicated and implemented;
- They create an open and transparent work environment where staff have confidence in the complaint system; and
- All such complaints are handled in an appropriate fashion with due regard to their nature.

2.3.5 Professional Standards Department (PSD) will have responsibility for ensuring the appropriateness of the policy and that the standards expected in the compliance of the policy are promulgated and monitored.



3 PROCEDURES

3.1 Recording and Reporting – Guiding Principles

- 3.1.1 It is imperative that any process for the handling of complaints should be (i) responsive to the needs of the complainants, (ii) proportionate in the handling of the complaint and (iii) as open and transparent as possible. The procedure should also be flexible so as to ensure that complaints can be dealt with at the lowest appropriate level with an emphasis on early resolution.
- 3.1.2 Complaints should be taken at face value and at the point when the complaint is made, the complainant should be given the name of a contact person or other information which will allow them to check on how their complaint is progressing.
- 3.1.3 Practical obstacles should not be put in the way, for example by requiring a complainant to attend a police station in person or having to wait for an officer of a specific rank to take a complaint. The police should be willing to go to the complainant – where practical – or talk to the complainant over the telephone.
- 3.1.4 Where a member of the public expresses dissatisfaction about conduct, there should be a presumption that it is valid and should be recorded.
- 3.1.5 Where the wishes of the member of the public are unclear, provide a copy of the IPCC leaflet '*How to make a complaint against the police*', where appropriate, or explain the procedures as set out in the leaflet. Do not discourage the member of public from making a complaint.
- 3.1.6 If it is unclear whether a complaint is about conduct or direction and control of the force, record and proceed with a complaint as one of conduct. This is in accordance with the Home Office guidance on direction and control complaints.



3.1.7 Where there are concerns about the capacity of the person who is making the complaint either provide support, if practical, or record the complaint and then consider need for support in follow up action.

3.1.8 Where a decision is taken not to record a complaint about conduct the reason should be explained to the complainant who should be advised of the right of appeal to the IPCC. Good practice is to provide the IPCC leaflet '*Appealing against the non-recording of a complaint*'.

3.2 Initial Action by Area or Department

3.2.1 The first person to normally deal with a complaint should be a substantive supervisor or manager. If such a supervisor or manager is not immediately available, the person receiving the complaint, even if it is the member of staff subject of complaint, must record all relevant details and pass them to a supervisor without delay.

3.2.2 Where a letter or e-mail of complaint is received, either directly from the public or via PSD, the Area Commander or Department Head will arrange for the complainant to be contacted as soon as possible and in any case within 24 hours by a substantive supervisor. The supervisor will, as soon as possible, establish what outcome the complainant is seeking.

3.2.3 Complaints received on Area by telephone, or made in person, will be dealt with as outlined in the paragraph above. Where a supervisor or manager is not immediately available the member of staff who receives a complaint shall make a written record of the fact before informing the duty manager or other available supervisor. The complainant should be advised at the time of the intended course of action.



- 3.2.4 All complaints should be acknowledged in writing as having been received (letter or e-mail) unless they have been resolved within 24 hours of initial receipt.
- 3.2.5 Every effort should be made to ensure that complaints are dealt with as promptly as possible by the Area or Department to which they refer and within 28 days if possible. Where it is likely that the complaint cannot be dealt with within 24 hours of receipt, a copy of the DC01 (see paragraph 3.3 below) will be faxed or e-mailed to the Complaints Process Manager, PSD. This will allow the Department to record the complaint and give the officer dealing a case number for the file.
- 3.2.6 If the complaint is one that is not suitable for local resolution (see paragraph 3.12.4 below) the Area Commander will ensure that an acknowledgement is forwarded to the complainant and a DC01 is completed with as much information as possible before it is sent to the Complaints Process Manager, Professional Standards. The acknowledgement should be in the following terms: *“The complaint/s which you have made by e –mail/letter/telephone to * Police Station has / have been referred for the attention of the Head of Professional Standards, British Transport Police Headquarters. You will receive a further communication in due course”*.
- 3.2.7 On completion (i) the DC01 (ii) any relevant letters to or from the complainant and (iii) any additional relevant documentation, will be examined and signed by the Area Commander (or the Chief Inspector PSD Champion) before being forwarded to the Complaints Process Manager at PSD.

3.3 Recording Forms – DC01

- 3.3.1 The Form DC01 is the standard form for the initial recording and resolution of complaints. The form is available on the intranet and supervisors should familiarise themselves with its location and layout. The full completion of the form



is a legal requirement and critical to the later analysis of complaints by PSD, BTPA, IPCC or HMIC. To that end the forms will be completed in full.

3.3.2 Whilst the forms can be completed electronically and this is occasionally desirable, it is recommended that supervisors have printed forms available to allow for immediate completion and, in Local Resolution cases, forms to be endorsed by the complainant.

3.4 Independent Police Complaints Commission Leaflet and Guidance

3.4.1 Leaflets entitled “How to Make A Complaint Against the Police” will be displayed in all Police Station public enquiry offices and thereby will be available to all members of the public. A leaflet should be supplied to any member of the public who makes a complaint against the Police.

3.4.2 It is the responsibility of Area Commanders to ensure the availability of leaflets printed in languages that are prevalent within the ethnic profile of residents of their own policing area. Copies of such leaflets are available from the IPCC (www.ipcc.gov.uk/index/complainants/info_leaflets.htm) and will be supplied on demand via the Complaints Process Manager, Professional Standards Department.

3.4.3 The leaflet is NOT intended to be a substitute for oral advice and explanation of the procedure given to a complainant by the officer recording the complaint, or by the supervisor appointed to investigate the matter.

3.4.4 To assist this requirement leaflets are available in a range of languages from the IPCC website (www.ipcc.gov.uk/index/complainants/info_leaflets.htm) and from the BTP intranet. The IPCC website also contains details on how to access the leaflet in braille, audio and large print formats.



3.4.5 The IPCC also contains other useful information leaflets not only for the public but for officers and police staff. It is recommended that Area Commanders, Department Heads and those resolving or investigating complaints draw this to the attention of staff.

3.4.6 The IPCC Statutory Guidance is also available on the IPCC website (www.ipcc.gov.uk/index/police.htm).

3.4.7 Equivalent information will be available for complaints made in Scotland. This will be leaflets provided by the PCCS and BTP leaflets. Whilst the IPCC Guidance is intended for use in England and Wales the principles contained therein are useful to officers and staff serving in Scotland.

3.5 Responsibility of the Manager or Supervisor

3.5.1 The supervisor or manager receiving a complaint will be responsible for interviewing the complainant, and determining whether the matter may be dealt with by way of local resolution, formal investigation, or as a direction and control complaint. Early identification of the complainant's specific wishes in respect of the issues raised, in order to establish their expectations, is strongly advised. This can avoid unnecessary and often protracted enquiries. Consultation with the Complaints Process Manager, PSD or the Chief Inspector Area PSD Champion may be of assistance.

3.5.2 The supervisors task is to achieve a position in which the complainant is satisfied that the complaint has been or is being dealt with in an appropriate manner but also in accordance with IPCC guidance and Force policy and procedure. In the case of matters suitable for local resolution (see paragraph 3.12.4 below) the case should be resolved without further referral. If the matter is not suitable for



local resolution, evidence preservation for a formal investigation becomes the main priority. In determining the most appropriate way forward, due regard should be given to those complaints that are subject of Mandatory referral to the IPCC. (see section 3.11 below)

3.5.3 It is emphasised that, a complaint will usually relate to the 'on duty' conduct of a member of the Force. Complaints which allege 'off duty' misconduct will be referred to the relevant Area Commander or Head of Department for a decision on the most suitable resolution method.

3.5.4 If the enquiry into any complaint is to take longer than 10 days, the enquiring officer will keep the complainant up-to-date with progress at least every 7 days unless otherwise agreed with the complainant.

3.6 Allegations against Officers from another Force

3.6.1 Allegations made in respect of the conduct of officers from other Forces will be recorded on the DC01 in accordance with the wishes of the complainant, i.e. for formal investigation or local resolution. The DC01, statement and any other documentation will be submitted to the Professional Standards via the Area Commander within 72 hours of receipt of the complaint, for onward transmission to the Force concerned.

3.6.2 Where an Officer from another Force is subject of a criminal allegation (including all traffic and minor offences) the procedure to be followed will be the same as that for Officers from this Force.



3.7 Complainants under the Influence of Alcohol or Drugs

3.7.1 Complaints made by people apparently under the influence of alcohol or drugs will not be recorded unless they are serious in nature and which:

- may therefore require appropriate action to preserve forensic or photographic evidence or necessitate medical examination; or
- there is significant credible evidence to support the allegation.

3.7.2 Where appropriate, the complainant will be handed the IPCC pamphlet and advised that the complaint will be fully documented following an opportunity for the intoxicant effects to pass. Details of action taken will be recorded on an incident record or, where the complainant is in custody, on the custody record

3.8 Persons in Custody

3.8.1 If a person making a complaint is in custody, the Custody Officer should ensure that the information about the detained person wishing to make a complaint is included on the custody record. The Custody Officer will cause the facts relating to the complaint to be brought to the attention of the Duty Manager, or other substantive supervisory officer without delay

3.9 Clarification of Complaints

3.9.1 Where it is not certain which way the complainant wishes to proceed (i.e. whether or not the matter falls to be dealt with as a conduct complaint) it may be necessary to forward the documents to the Area or Department concerned for the complainant to be contacted and the matter clarified.

3.9.2 An appointed supervisor will interview the complainant and establish whether or not the matter falls within the terms of a Section 12 complaint - i.e. a confirmed 'conduct' allegation. If Section 12 applies, consideration will be given to the question of which action is the most appropriate to be taken. If the matter is



deemed to be a direction and control complaint under Section 14, it should be dealt with in accordance with that procedure.

3.9.3 If the complainant wishes to withdraw any allegations, the relevant section of the DC01 should be endorsed and signed or a statement obtained in the following terms: -

- *“I refer to the complaints(s) I made at * Police Station / etc. on *, in respect of an incident involving a Police Officer(s)/ Police Staff. I do not wish to pursue any complaint against Police in respect of the incident and do not require any further enquiries to be made.”*

3.9.4 The DC01, outlining the content of the interview and the reasons for the withdrawal, and any statement should be forwarded to Professional Standards, via the Area Commander as soon as possible.

3.9.5 It should be noted that, at this stage, the matter may not have been recorded by PSD under the provisions of Section 12 or 14. Therefore notification to PSD within the normal timescales is still required once the matter has been clarified.

3.10 Complaints involving multiple Areas or Departments

3.10.1 Where a complaint is received which may involve more than one Area or Department, one Area will assume primacy for managing the complaint, this will normally be the territorial Area where the incident occurred.

3.10.2 Dual handling of a case should be avoided albeit another command may need to conduct enquires in order that a satisfactory understanding of what took place can be provided to the complainant.



3.10.3 Any delays from such an enquiry or any transfer of responsibility for the handling of a complaint will be notified to the complainant in writing.

3.10.4 Complaints received by a member of the Chief Officer Group should be forward to the relevant Area or Department for resolution, via PSD. This will allow for immediate central recording and subsequent tracking.

3.11 Serious Allegations and Mandatory Referral to the IPCC

3.11.1 Where complaints are received which are deemed to be of a serious nature, either by reason of likely media/public interest or the matter falls into a category requiring a Mandatory Referral to the IPCC, immediate contact (via the MICC supervisor after 1700 hrs or at weekends) will be made with the on-call Investigating Officer, Professional Standards.

3.11.2 The Force, via PSD, is required to refer to the IPCC within 1 working day (24 hrs) of the receipt of the complaint, all complaints and conduct matters falling into the below categories:

- **Death or Serious injury** – An allegation of conduct that resulted in harm or injury which is more serious than assault occasioning actual bodily harm contrary to section 47 of the Offences Against the Person Act 1861.
- **Serious Assault** – shall be construed in accordance with the charging guidelines agreed between the Crown Prosecution Service and the Association of Chief Police Officers in relation to assault occasioning actual bodily harm contrary to section 47 of the Offences Against the Person Act 1861.
- **Serious Sexual Offences** - shall be construed as including all offences under the Sexual Offences Act 1956 and 2003 that are triable only on indictment.



- **Serious Corruption**
- **Discriminatory Behaviour** - any criminal offence or other behaviour which is liable to lead to a disciplinary sanction that is aggravated by discrimination, actual or perceived
- **Serious Arrestable Offences** – as defined by Section 116 of the Police and Criminal Evidence Act 1984. (Indictable offences in Scotland)

3.12 Local Resolution

3.12.1 Local Resolution (LR) replaces the former 'Informal Resolution' in both England & Wales and Scotland. Despite the difference in name the processes are in essence the same, there being only 2 real differences:

- Local Resolution requires informed consent at the beginning of the process and once agreed by the complainant cannot be rescinded. Whereas Informal Resolution required consent at the end of the process and if not agreed by the complainant the case had to be referred for formal investigation
- Local Resolution in England and Wales is capable of appeal to the IPCC. Appeals will only be upheld if the agreed process was not followed and is not based on the final outcome. In Scotland any appeal is to the Force in the first instance. However, a complaint may refer the matter to the PCCS if they remain dissatisfied.

3.12.2 The aim of LR is to provide a speedy and satisfactory resolution to a complaint without the need to undertake a formal investigation. Examples of such cases may include those where the complainant:

- merely wishes for an explanation from the individual concerned;
- wants to be reassured that the same conduct is not recurrent;
- wishes for a senior officer to convey their dissatisfaction to the individual concerned;



- seeks an apology;
- wishes for training needs to be identified and addressed;
- seeks some form of immediate reparation or where he/she does not wish for a formal investigation to be undertaken.

3.12.3 Although pressure must not be put on a complainant to accept LR against their wishes, it is proper that complainants are made aware of the full meaning of the process, including the fact that the complaints are properly examined, centrally recorded and are subject to an appeal process. Complainants should not be 'offered' a formal investigation as an alternative to LR, but given a realistic assessment of what a proportionate investigation would be based upon. It would be of some use to make the complainant aware of paragraph 5.4.4 of the IPCC guidance in this regard:

"Key factors in proportionality

IOs will use their professional judgement in determining the level of an investigation; the IPCC expects them to take the following issues into account:

- *If a complaint was suitable for Local Resolution but the complainant did not consent*
- *The seriousness of the allegation being made*
- *Whether the facts are in dispute*
- *The availability of corroborative documentation or other evidence*
- *The availability of independent evidence for example, independent witnesses, CCTV, medical or forensic evidence*
- *How old the incident is and whether evidence is still likely to be available; has evidence already been seized*
- *The prospects of gaining evidence for criminal prosecution or disciplinary proceedings*
- *Whether it is necessary to interview officers/staff or whether sufficient evidence is available*



- *Whether all officers/staff apparently involved need to be interviewed when a clear picture emerges at an early stage*
- *Public interest in the case*

The IPCC expects that policy decisions in relation to an investigation will be recorded. The format will vary according to the nature and the scale of investigation.”

3.12.4 As a guide to determine which complaints are suitable for LR, it can be presumed that complaints which do not fall to be subject of mandatory referral to the IPCC are capable of LR unless they are allegations which, if proved, would be likely to result in criminal proceedings or a misconduct proceeding. Complaints which involve conduct subject of a mandatory referral to the IPCC will not be considered for LR. In Scotland care must be taken to establish whether or not the complaint amounts to an allegation of criminality which may require forwarding to the Procurator Fiscal. This will require establishing the exact wishes of the complainant in order to be clear on this issue.

3.12.5 When carrying out LR, care must be taken to fully explain the process to the complainant, and their written consent to the process at the outset must be obtained. In practise it is necessary to identify exactly the issues of complaint and itemise them at sections 4 and 6 of the DC01. The course of action to be undertaken by the supervisor dealing with the matter should also be itemised. This ‘action plan’ should contain the enquiries and activities to be pursued to resolve the complaint. These may included speaking to the staff subject of complaint, examining logs and pocket books etc, speaking with witnesses, identifying training needs or policy issues, holding a meeting between staff and the complainant etc. This should not be considered an exhaustive list and much will rely on the nature of the complaint and the imagination and skill of the supervisor. The complainant should agree to the itemised action plan. During the resolution of the complaint, section 7 of the DC01 will need to reflect the outcome



of each agreed action. If an agreed action cannot be carried out for any reason, this fact must be conveyed to the complainant and a reason provided on the DC01. Failure to do the above may result in a successful appeal to the IPCC or PCCS.

3.12.6 Care should be taken in the completion of the DC01 both in terms of the legibility and content of the form. The form will be subject of disclosure to the complainant and employee about which the complaint has been made at the conclusion of the process. As such it should be factual, accurate and not contain judgemental views that cannot be supported.

3.13 Staff Rights During LR

3.13.1 Whilst the consent of the employee subject of the complaint is not required to carry out Local Resolution, they have rights to which their attention should be drawn at the outset of the resolution process. These rights are contained on the form DC03, which should be provided to them with an explanation of the rights and LR process. It is important that staff understand the protection provided whilst engaged in the LR process (see paragraph 3.13.3). This is specifically to encourage honest responses or explanation to complaints. Refusal to comment is not only unhelpful but does nothing to assist the complainant in understanding the employees' position at any given incident.

3.13.2 If an explanation is sought from the individual complained about, whether in writing or orally, then they must be permitted to provide such explanation without fear. By law anything said by any party during the process may not be used in any subsequent criminal, discipline or civil hearing unless an admission is made relating to some other matter that is not subject of the LR.



3.13.3 LR may involve some form of mediation between the complainant and the employee subject of complaint, or by arranging for a senior officer to meet with the complainant to discuss the specifics of the complaint. Meetings proposed between the complainant and the employee subject of complaint must be arranged with the consent of the employee subject of complaint.

3.13.4 Apologies cannot be offered to a complainant in relation to the conduct of a member of staff unless the employee agrees. However, there is nothing to prevent an apology being tendered on behalf of the Force in this regard. Supervisors should be mindful that this is a clear indication that the conduct alleged or the attendant circumstances are not condoned by the local management or the Force and are a matter of regret.

3.14 Area Action

3.14.1 When a complaint is received by the Area and it appears to the Area Commander that the complaint is suitable for LR, he/she shall seek to resolve it personally or appoint a substantive supervisor (Appointed Person) to do so.

3.14.2 Where the Appointed Person feels that a local resolution of a complaint has been achieved, the completed DC01 should be submitted to the Commander on whose Area the complaint arose.

3.14.3 If it appears to the Area Commander that the complaint was suitable for Local Resolution and has been satisfactorily dealt with in accordance with Force Policy, the Area Commander may, subject to any representation made by the complainant, treat it as having been locally resolved and endorse the relevant section of the DC01 accordingly.



3.14.4 Where the Appointed Officer is unable to locally resolve the complaint for whatever reason, the complaint will be submitted to the Area Commander who will decide whether LR remains a possibility or LR is not appropriate or would not succeed.

3.14.5 If the Area Commander determines that LR remains a possibility, the Area Commander will allocate the matter to an officer or member of staff more senior than the previously Appointed Officer or member of staff, to attempt LR or may seek to locally resolve the complaint personally, without reference to Force Headquarters.

3.14.6 If the Area Commander determines that LR is not appropriate or would not succeed, the Area Commander will ensure that the DC01 is completed in respect of the information required for a formal investigation. A summary of what action has been taken to locally resolve the complaint should also be included. The matter will then be referred to the Complaints Process Manager, PSD.

3.14.7 It shall be for the Head of PSD to finally determine that a complaint has been locally resolved and will only do so if satisfied that the complaint is one that is suitable for local resolution and that policy and procedure has been complied with. In the event that the criteria are not fully met, the Head PSD may direct that the complaint shall be investigated formally or return it to Area for a further attempt at LR.

3.15 Formal Investigation – Initial Action

3.15.1 Following initial interview with the complainant, the officer tasked with recording the complaint may consider that the complaint is of a nature which cannot, or should not, be subject to Local Resolution or the complainant fails to agree to the matter being locally resolved.



3.15.2 There is a legal duty on the part of Police to preserve evidence after a complaint has been made and prior to a complaint investigation being carried out. The initial action in cases described above is aimed to meet this duty. The guidance given is not exhaustive and supervisors are expected to take all reasonable steps to identify, preserve and collate evidence.

3.15.3 Where the allegation made is one of assault, the complainant should always be examined by a Police Surgeon, as should any employee likely to be subject of complaint. Consideration must be given to photographing complainants and, if need be, employees in order to prove or disprove any allegations of injury. However, the commissioning of medical reports or statements at this stage should be avoided.

3.16 Statements.

3.16.1 A full statement will be obtained from the complainant only in the following circumstances;

- When the complainant resides in a particularly remote location; or,
- When the complainant resides or intends to reside abroad for any length of time; or
- When the employee complained of serves in another Force Area.

3.16.2 Any statement should be a chronological sequence of events immediately surrounding the incident, which gave rise to the complaints against any employee. The description of the actions of the employee subject of complaint should be as accurate as possible.

3.16.3 It is imperative that at the conclusion of the statement, all complaints must be listed in such a manner that they can clearly be identified under the categories



specified by the IPCC. IPCC classifications are distinct from the Standards of Professional Behaviour (see section 3.21).

3.16.4 No Section 9 statement¹ should be taken however where the complaint is directly linked to outstanding judicial matters, or where the complaint is of a particularly serious nature. In cases of doubt, advice should be sought from Professional Standards.

3.16.5 Statements should not be taken from employees for the purpose of providing evidence in relation to the complaint. However, where statements have been provided in relation to any judicial proceedings against the complainant, a copy of these should be included with the complaints form in addition to copied extracts from official pocket notebooks. Duty reports or statements should not be sought from employees subject of complaint.

3.16.6 Where a complainant was in custody at the time the complaint was made, copies of Custody records should be obtained and arrangements made for the preservation of Custody CCTV. Copy tapes should be arranged if likely to be relevant to the enquiry.

3.16.7 Significant attention should be paid to the obtaining of CCTV evidence generally. Frequently such evidence does much to prove or disprove an allegation and has the potential to prevent extensive and unnecessary enquiries. Every reasonable effort must be made to establish the existence of CCTV evidence and secure it wherever possible. Early viewing may assist the subsequent investigation. Police Evidence Gathering Team video is not excluded from this requirement.

¹ Criminal Justice Act



3.16.8 The DC01 and all documentation, together with a comprehensive covering report, will be submitted to the Area Commander for onward transmission to the Professional Standards Department, within 72 HOURS of initially receiving the complaint. However, this does not remove the necessity to notify PSD within 24 hrs of the existence of the complaint as at paragraph 3.2.5

3.17 Role of Control Rooms and the MICC

3.17.1 When a Control Room or the MICC receives a complaint, normally by telephone, and the complainant cannot immediately be transferred to the responsible manager or supervisor of the Area or Department concerned and the matter is not capable of being dealt with immediately by a control room supervisor, a record of the complaint will be made on NSPIS Command and Control.

3.17.2 If the complaint arises from an incident already on NPSIS Command and Control, control room staff will add the details of the complainant and complaint to the record. If no record exists a record will be created containing the complainant and complaint. In both cases the records will be tagged for PSD and drawn to the attention of the duty manager or supervisor for the relevant Area. The complainant should be advised of the intended course of action and provided with a reference number from the respective incident record.

3.17.3 Where a complaint call is received between the hours of 0800 and 1700 on a weekday, and attempts to refer the matter direct to a supervisory officer of the Area concerned have been unsuccessful, the matter may be referred to the Complaints Process Manager, Professional Standards Department, Force Headquarters.



3.18 Complaints against Chief Officers

3.18.1 If a complaint is received about the conduct or actions of the Chief Constable, Deputy Chief Constable or an Assistant Chief Constable it should be recorded in the Correspondence Register, forwarded immediately to PSD and the complainant informed accordingly.

3.18.2 The responsible body for considering complaints against these officers is the Police Authority and not the Chief Constable, therefore PSD will record the matter for tracking purposes and forward it to the Clerk to the Police Authority.

3.19 Rights of Employees Subject of Complaint

3.19.1 An employee is entitled to have a 'friend' present, who may be any person serving with the Force or a staff association representative, at any discipline interview relating to a complaint or internal matter. Where an employee is being interviewed in relation to a criminal allegation then, in England and Wales, the Police and Criminal Evidence Act 1984 (PACE) Codes of Practice apply and such a 'friend' is not entitled to be present and the employee will be entitled to seek independent legal advice free of charge. Criminal offences being investigated in Scotland will be done in accordance with Scottish legislation.

3.19.2 If it appears to an enquiring supervisor that the local resolution of a complaint may be assisted by a meeting between the complainant and the employee, such a meeting should not be arranged unless the employee consents. The parties concerned may find it reassuring to have a layperson or a friend at the meeting as an independent presence and this should not be discouraged.

3.19.3 The enquiring supervisor may not, for the purposes of locally resolving the complaint, tender on behalf of the employee concerned any apology unless the employee has admitted the conduct in question or consented to an apology being



given. However, it may be appropriate to tender an apology for the fact that the complainant has felt the need to express concern about the matter giving rise to his/her report. This does not require the consent of the employee concerned.

3.19.4 Any employee subject of a complaint is entitled to a copy of that complaint upon written request. This request should be directed to the Head of PSD and will only be granted at the conclusion of any investigation and when the matter has been finalised.

3.19.5 Where an employee is subject of a complaint which cannot be locally resolved, the employee will be served with a notice setting out the nature of the allegation. The service of the notice will take place as soon as practicable, whilst due care should be taken to ensure that the service of such a notice does not prejudice any investigation. Where the complaint can be Locally Resolved, a form DC03 will replace any notice mentioned above.

3.20 Role of Professional Standards

3.20.1 The Professional Standards Department will establish and maintain the statutory register of conduct complaints. They will ensure that any complaints received by PSD, either directly or via the Chief Officer team, which fall to be recorded and managed within these guidelines are recorded and forwarded to Area or Department for resolution or investigated by PSD.

3.20.2 On receipt of a complaint, the complaints process manager will ensure the appropriate categorisation and recording on to the force computerised register. In addition, the complainant will be notified that this process has taken place together with any reference number and opportunity to obtain a copy of the record if required. PSD will have in place procedures to monitor the performance and registration and handling of such complaints. The responsibility for liaison with the



IPCC rests with the Deputy Chief Constable through the Head of PSD and senior PSD staff.

3.20.3 All complaints that require formal investigation will be investigated by PSD Investigators, unless they relate to Superintending Ranks, PSD staff or are managed by the IPCC, who may direct who the Investigating Officer should be.

3.20.4 There will also be a reporting mechanism to ensure that organisational learning from complaints is promulgated to Areas and Departments. PSD will ensure that all complaints are recorded in such a fashion that will enable regular analysis to be made to identify trends and emerging themes. Such management information will be available to Areas and Departments via Force Strategic Groups such as FMT or from the PSD Tactical Assessment.

3.20.5 The Head of Professional Standards will arbitrate on complaints which either have not been locally resolved or explained to the satisfaction of the complainant or where there is a dispute over whether or not the matter amounts to a conduct complaint, recordable conduct or a direction and control matter.

3.20.6 PSD has a responsibility not only to promulgate good practise but to be a conduit for learning, advice and guidance. To that end PSD will provide a 24 hour service for those needing advice to resolve or manage complaint cases and will ensure appropriate input into relevant training courses.

3.21 IPCC Complaint Categories

3.21.1 Whilst the recording and categorisation of complaints falls to PSD, an understanding of classification will greatly assist those supervisors recording and managing complaints. These should not be a 'pick' list for the complainant to select from but rather a guide to assist the supervisor to itemise issues of



complaint from a complainants account, thus minimising the likelihood of misunderstanding. These categories are contained within the IPCC Statutory Guidance and are not to be confused with the standards of professional behaviour contained in the Police (Conduct) Regulations.

- **A. Serious Non Sexual Assault** - Section 18 or 20 assaults, up to and including homicide.
- **B. Sexual Assault** - Including female or male rape, attempted rape and paedophilia (including sexual assaults on children).
- **C. Other Assault** - A person serving with the police must never knowingly use more force than is reasonable, nor should they abuse their authority. This category includes any unjustified use of force or personal violence (but not technical assaults arising from unlawful arrest) and any incident involving police dogs or police horses where the incident is attributable to the conduct of the member in control, unless the severity of injury puts them into category 'A' above.
- **D. Oppressive Conduct or Harassment** - Unjustified interference, questioning or surveillance, improper request for driving documents.
- **E. Unlawful/unnecessary arrest or detention**- Where a person serving with the police makes any unlawful or unnecessary arrest or detains any person unnecessarily.
- **F. Discriminatory behaviour** - Acts toward an individual that a person serving with the police may have come into contact with whilst on or off duty, which amount to an abuse of authority or maltreatment. Includes acts committed on grounds of another person's: nationality or ethnicity; sexual orientation; disability; age; religion; or gender.
- **G. Irregularity in relation to evidence/perjury** - A breach of this category includes perjury or other allegations of falsehood, including an allegation that evidence was obtained by irregularity or under duress.



- **H. Corrupt practice** - It is of paramount importance that the public has faith in the honesty and integrity of all persons serving with the police and that they avoid being improperly beholden to any person or institution and discharge their duties with integrity. A breach of this category includes any criminal allegation of corruption or any other form of corrupt practice.
- **J. Mishandling of Property** - A breach of this category includes the theft or loss of property (including money); unreasonable retention of property; damage to property in police custody; failure to account for money or property; improper disposal of property. In all cases save complaints of theft, these matters should be included under S (Failures in duty) if the complaint is specifically one of negligence, with no implication of dishonesty.
- **K. Breach of Code A PACE on Stop and Search** - Unjustified use of the relevant power, particularly where reasonable suspicion cannot be supported; failure to act appropriately before or during a search or to make the necessary record where practicable.
- **L. Breach of Code B PACE on Searching of Premises and seizure of Property** - Unauthorised entry on search; failure to provide information to occupier; improper or excessive search; failure to record searches properly; not securing premises where necessary; breach of rules on seizure or retention.
- **M. Breach of Code C PACE on Detention, Treatment and Questioning.** - Failure to inform detained persons of their rights and entitlements; unjustified obstruction of access to legal advice; holding persons incommunicado; not providing necessary support or advice to young or vulnerable detained persons; failure to maintain proper custody/property records; not providing mandatory physical conditions whenever practicable; not carrying out searches on detained persons in accordance with the Code; conducting review of detention improperly or at inappropriate intervals. Failure to caution or charge when required; interviewing oppressively or in inappropriate circumstances; not making proper records of



interviews and allowing them to be checked by suspects where practicable; not providing interpreters where necessary.

- **N. Breach of Code D PACE on identification-** Failure to provide suspects with information about identification procedures or to offer them a choice between procedures where appropriate; not conducting or recording identification procedures properly; not obtaining necessary consents to the taking of fingerprints, photographs or body samples; not providing suspects with opportunity to witness destruction of fingerprints or photographs where appropriate.
- **P. Breach of Code E PACE on Tape Recoding** - Failure to tape-record (without good reason); failure to handle tapes openly and in front of the suspect or to maintain adequate tape security; not making a proper record of objections, complaints, breaks etc
- **Q. Lack of fairness and impartiality** - A person serving with the police has a particular responsibility to act with fairness and impartiality in all their dealings with the public and colleagues
- **R. Multiple or unspecified breaches of PACE** - which cannot be allocated to a specific code.
- **S. Other neglect or failure in duty** - A person serving with the police should be conscientious and diligent in the performance of their duties. They should attend work promptly when rostered or informed of their duties. If absent through sickness or injury, they should avoid activities likely to retard their return to duty.
- **T. - Other irregularity in procedure** Other procedural irregularities not caused by neglect except breaches in the Codes of Practice
- **U. Incivility, impoliteness and intolerance** - A person serving with the police should treat members of the public and colleagues with courtesy and respect, avoiding abusive or deriding attitudes or behaviour. In particular they must avoid: favouritism of an individual or group; all forms of victimisation or unreasonable discrimination



- V. **Traffic irregularity**. - Complaints about the driving or use of vehicles on police business (but not about police conduct in dealing with civilian traffic).
- W. **Other** - E.g. criminal damage (except in connection with searches of property).
- X **Improper disclosure of information** - From police, national or other records, whether by paper, electronic means, or any other means
- Y **Other sexual conduct** - Indecent assaults; sexual harassment; soliciting of prostitutes; incidents relating to the collection or use of child pornography, either in or out of the workplace

3.22 Diversity Impact Assessment

3.22.1 This SOP has been assessed with regard to its relevance to race and diversity equality. As a result of this assessment the SOP has been graded as having a high potential impact.

4 MONITORING AND COMPLIANCE

- 4.1 The British Transport Police Authority (BTPA), through its Professional Standards Sub - Committee, will ensure that the appropriate processes and procedures are in place and are being applied in practice. The BTPA will perform dip sampling of completed complaint files in liaison with the Head of Professional Standards.
- 4.2 The BTPA will regularly scrutinise and understand the causes of complaints, analysing complaints by Area, type, victim etc. The BTPA will identify what action the Chief Constable may have taken in responding to the causes of complaints where necessary. Such scrutiny will include strategic analysis of complaints that may reflect overall policing styles and management, benchmarking against other police forces.
- 4.3 The BTPA will, based upon their scrutiny activities, have the ability to call for reports from the Head of Professional Standards in areas of particular concern or interest.



- 4.4 Her Majesty's Inspector of Constabulary (HMIC) may include (in its normal Force Inspection) the Force's procedure for handling conduct complaints and will scrutinise the effect of this on both its operation and its oversight function.
- 4.5 The Independent Police Complaints Commission had a statutory guardianship and monitoring role which may, from time to time, include dip sampling of completed complaints cases.

5 APPENDICES

- 5.1 *Form DC01 – Recording of Conduct Complaints*
- 5.2 *Form DC03 – Notice of Complaint – Local Resolution*