

Completing the Mode of Investigation Minute

Known factors

The known factors section of the form is intended to capture the important characteristics that a case exhibits at the point it is referred. Some factors automatically require a particular treatment in terms of MOI. Even where any of these automatic factors apply, any additional factors identified from the 'point factors' section of the form should still be checked in order to better describe the characteristics of the case.

Items in the 'point factors' list are each given a points weighting, one to three. The total point score should be compared with the indicative MOI table in order to determine which level of MOI is suggested by the noted characteristics of the case. Both the automatic factors and point factors sections of the form are reproduced below, along with the indicative MOI table.

Casework Manager		
Part 1: Determining the MOI – Known Factors		
AUTOMATIC FACTORS		
Fatal Shooting	Independent Investigation	
Article 2 engaged	Independent/External Force Investigation	

POINTS	POINT FACTORS	SCORE
3 Points		
	Torture	
	Inhuman or Degrading Treatment	
	Corruption	
	Death in Custody	
	Firearm Discharged – Conventional	
	Allegations against ACPO rank officers	
	Perjury	
	Terrorism related	
Total		
2 Points		
	Assault Using Assigned Equipment or Other (e.g. dog bites)	
	Cause of Serious Injury Indicates Police Fault/Negligence	
	Serious Injury from RTI or Assault	
	Discrimination	
	Linked With Other Criminal Investigations	
	Mental Health (e.g. Mental Health Act s135/6)	
	Allegations against Superintending/Inspector rank officer	
	Previous Similar Allegations Against Force or Officer	
	Sexual Assault	
	Significant disagreement between force and IPCC	
	Vulnerable complainant	

Total		
1 Point		
	Death Following Police Contact	
	Distress/Minor Injury From RTA or Assault	
	Domestic Violence	
	Excessive Force	
	Failures in Duty	
	Involvement of Alcohol or Drugs	
	Missing Person	
	Multiple Officers/Multiple Complainants	
	Stop and Search	
	Supervising Officer	
Total		
TOTAL POINT SCORE :		

POINTS KEY	INDICATIVE MOI
<6	Local/Supervised
6 to 12	Supervised/Managed
>12	Managed/Independent

It is important to bear in mind that the indicative MOI worked out from a case's total points score here is exactly that – indicative. Which MOI is suggested by the risk assessment will be further refined in the later 'core risks' section.

In the end, not all cases that score highly on the known factors section of the MOI form will attract a higher graded MOI decision. An example might be a complaint of an incident which happened some 6-12 months ago but sent to us pursuant to a civil action. Whilst the incident described might attract a high score a Casework Manager may recommend local investigation given the time that has passed.

Conversely an incident attracting a low score may have a higher graded MOI because of previous similar incidents, policy decisions about collecting information on trends, as part of learning lessons. The score does not determine the MOI but the Casework Manager should recommend the MOI by explaining and relating the factors.

The Casework Manager when considering the factors must avoid duplicating factors and thereby inflating the score. For example if you indicate discrimination, Mental Health Act or Sexual Assault you don't need to also indicate Vulnerable Person, unless there is something significant which highlights them as particularly vulnerable, perhaps that the alleged victim is under 16 years old or has learning difficulties. In such cases you should indicate the higher scoring factor and ignore the lower unless there is something pronounced and extraordinary which requires highlighting.

For definitions of what each of the known factors should be taken to mean, refer to [Definitions of MOI factors](#) .

The role of evidence

The 'independent evidence available' box, reproduced below, should be used to indicate whether there is any evidence available at the point of referral in order to independently corroborate the allegations that have been made and referred to the IPCC. Where independent evidence is available to support the allegations that have been made, indicate what sort of evidence that is. This should be completed after, if necessary, the force has been queried as to whether such evidence is available.

Independent	
CCTV	
Medical	
Other	

The case for IPCC involvement in a referred case may be stronger if at that time independent evidence of some sort is available to corroborate what is alleged.

Core risks

Examining the known factors at the time a case is referred to the IPCC provides an indicative MOI, two options which lie next to each other in the spectrum of possible MOI decisions. The core risks section of the MOI form is an analysis of what could happen in the future with the case that has been referred. The impact and likelihood of something significant arising in the future will provide an indication of whether the final result of the risk assessment should be the more or the less interventionist of those two options.

A core risk is a risk in the environment in which an MOI recommendation is made. On their own core risks do not determine the MOI, but are taken into account together with the case's known factors to inform the decision on the most appropriate MOI for that case. Its purpose is to identify and assess the probable impact on an MOI decision of other potential risks and how they may affect how the case is run, other than factors already known as fact.

The IPCC has a risk assessment framework in place, but risk assessment is not a precise science - it is based on knowledge and judgement of the case and the environment at the time. It is therefore important to recognise that it is normal for a risk assessment to change over time. It may go up (i.e. have a greater impact) or reduce (have a lesser impact). This will be caused by a number of factors including new information about the case being received, or merely the passage of time. For example, we may think initially that the local media will focus on a

particular case, which does not then actually happen. This may be due to other news stories which eclipse the current case, or that it just did not feature on the media radar.

The risk assessment should be carried out using the risk assessment grid on the MOI form. This is reproduced below.

Part 2 – Determining the MOI					
Risk Consideration Grid - Core Risks					
CORE RISKS	Impact Score (a)	Probability Score (b)	RISK SCORE (a)x(b)	Red(R) Amber(A) Green(G)	Particular Case Issues
Media interest					
Public and community interest and concern					
MP Interest					
Confidence issues with the IPCC					
Confidence issues with the Police					
Confidence issues with the complaints system					
Force Profile Factor					

The first step is to identify the risks the Casework Manager feels are relevant to the case. The risk assessment grid has already been populated with the most common risks likely to impact on our MOI decision. There may however be others and the list on the standard MOI form should be added to as appropriate to any particular case.

The second step is to make an assessment of each of the risks, including any risks that have been identified additional to the standard items. For each of the risks included in the risk consideration grid, the Casework Manager must determine both the impact and likelihood of each occurring. Impact and likelihood ratings used by the IPCC are outlined in the tables below. Both use a sliding scale of 1 to 5, where 1 has the least impact/likelihood of occurring and 5 the greatest. These should be used as a guide to completing the risk assessment. There are no right or wrong answers – results here are the Casework Manager's assessment at the time.

Impact	Score	Definition
Extreme	5	Critical impact on how case is run. Could seriously affect national IPCC reputation and confidence in complaints system
Major	4	Major impact on how case is run. Could result in local confidence issues and seriously affect local/regional office reputation
Moderate	3	Significant impact on how case is run
Minor	2	Minor impact on how case is run
Insignificant	1	Minimal or no impact on case

Likelihood	Score	Criteria
Almost Certain	5	>80% Almost certain to occur
Likely	4	51-80% More likely to occur than not
As Likely As Not	3	21-50% Fairly likely to occur
Unlikely	2	6-20% Unlikely, but not impossible to occur
Rare	1	0-5% Extremely unlikely to occur

Once the relevant impact and likelihood ratings have been decided, multiply these together to arrive at a risk score:

RISK SCORE = Impact score x Likelihood score

These risk scores should then be compared to the IPCC's risk matrix, in the table below, to give each risk a RAG (red/amber/green) rating. The 'Particular case issues' column should be used to give a brief rationale for how the risk relates to the case being risk assessed.

Business Impact	Extreme	5	5	10	15	20	25
	Major	4	4	8	12	16	20
	Moderate	3	3	6	9	12	15
	Minor	2	2	4	6	8	10
	Insignificant	1	1	2	3	4	5
			1	2	3	4	5
			Rare	Unlikely	As likely as not	Likely	Almost certain
			Likelihood				

A score of 1 to 4 is a green risk, a score of 5 to 10 is an amber risk, a score of 12 to 25 is a red risk.

Finally, the RAG ratings of the assessed risks should be used to inform whether the greater or lesser of the two MOI options indicated earlier (based on known risks) should be recommended. For example, the known factors of a case result in a point score of 5. This gives an indicative MOI of Local/Supervised. Risk assessment puts all of the Core risks at green, hence the final MOI recommendation is likely to be Local - there are no other factors expected at this point which support a higher MOI decision.

Conversely, the assessment of core risks may have brought up three amber risks for media interest, community interest and confidence issues with the police force. The final MOI recommendation is likely to be higher - supervised. At the extreme this relatively low score on the basis of known factors might be followed by a series of red rated risks. In this case not only is supervision likely to be the suitable mode, management of the case might also be considered.

Part 3: Intelligence

This section of the form is intended to act as a reminder to Casework Manager's to input known details of the police officer/staff subject of complaint. It is important that this data is captured as completely as possible. If details of the incident location are provided it is the responsibility of the Casework Manager to ensure they are captured within the CTMS record.

Part 4: Casework Manager's assessment and recommendation

In addition to completing the known risks and core risk sections, the Casework Manager should provide a narrative in this section of the MOI form. An effective narrative requires three elements – background details, a risk assessment, and finally an MOI recommendation.

- Background

The Casework Manager should précis the known facts of the incident such that someone previously unfamiliar with the circumstances could understand the nature and significance of what has been referred.

- Assessment

The Casework Manager should describe, and as necessary expand upon, the factors that they have taken into consideration in order to make their risk assessment of the referral. This section should also include the Casework Manager's assessment of any possible engagement of Article 2 or Article 3 of the European Convention on Human Rights.

- i) Article 2 engagement

The Casework Manager should explain if, from the evidence available at the time of assessment, there is a potential that police may bear responsibility for the death of, or life threatening injuries to, an individual.

If Casework Managers are unsure, they should seek advice from a member of the Legal Team.

- ii) Article 3 engagement

The Casework Manager should answer if the referral includes any credible allegation that an individual has suffered torture or inhuman or degrading treatment as a result of the actions or inaction of police.

If it is considered that there is a credible allegation that Article 3 may have been breached, the Casework Manager should provide an assessment of i) the seriousness of the allegation, and ii) any evidence of justification for the action alleged to have breached the individuals Article 3 rights.

The Casework Manager should also indicate, by way of the Yes and No tick boxes provided, if it appears criminal proceedings would be available.

If Casework Managers are unsure, they should seek advice from a member of the Legal Team.

- Recommendation

The Casework Manager should make a clear recommendation as to the mode of investigation that is required. The distinction between referral back to force and local investigation should be kept in mind, and whether for a supervised or managed investigation it is appropriate to engage an external force to conduct the enquiry. If the final MOI recommendation is at variance with the MOI suggested by the analysis undertaken of known factors and core risks, this should be explained in full.

The MOI recommendation will then be passed to either:

- Head of Casework: if the recommendation is to refer back to appropriate authority, local or supervised.
- Local Senior Investigator: if there is a request for a Scene Assessment, or the recommendation is for a managed or independent investigation.

Part 5: Scene Assessment

The IPCC Investigator conducting the Scene Assessment is required to provide a summary of their findings and their MOI recommendation in this section. The

recommendation should then be sent to the Director of Investigations and copied to the Casework Manager allocated to the referral.

Part 6: Director of Investigations recommendation

There are three principal considerations for the Director of Investigations or his deputy when considering the case and completing the MOI form:

- whether resources are available or can be made available to meet the recommended MOI
 - a continuation of the risk assessment process begun by the Casework Manager, and;
 - consideration of whether Article 2 or Article 3 of the European Convention on Human Rights applies to the circumstances that have been referred.
- Resources

If the IPCC is to take on direct involvement in the investigation of a complaint, conduct or DSI matter there is a need to find resources internally in order to take on that work. This needs to be factored in to the final decision as to which MOI is adopted.

- Risk assessment

The Director of Investigations should consider the risk assessment that has been applied by the Casework Manager and, if appropriate, endorse it. If the Director of Investigations takes a different view on any point of the assessment, in particular the recommended MOI, this should be made clear and the reasons for it explained. Particular attention should be paid to the core risks section, given that the Director of Investigations may have a different perspective on the issues regularly touched upon there.

- Article 2

Any case where Article 2 may be engaged should be referred to the Directorate of Legal Services for advice by the Director of Investigations. Reference may have already been made to Article 2 implications in the Casework Manager's assessment. The Director of Investigations should directly consider this question and refer to Legal for advice as necessary. A decision at this stage not to refer to Legal for advice should be justified here.

- Article 3

When the IPCC receives a referral which contains a credible allegation that there has been a breach of an individual's Article 3 rights, it will determine the mode of

investigation by reference to the severity of the allegation and evidence of justification for the action alleged to have breached the individual's Article 3 rights. In making its determination it will additionally take into account whether any alternative remedies may be available to the person subject to the alleged conduct. In cases containing a credible allegation that there has been a breach of Article 3, an independent scene assessment may assist and inform the MOI decision.

Reference should have already been made to Article 3 implications in the Casework Manager's assessment. The Director of Investigations should directly consider this question. The Director of Investigations must also consider whether legal advice would assist in determining Article 3 engagement and record any reason for not seeking legal advice.

- Recommendation

It is important to record one of the four distinct modes of investigation or that the case should be referred back to the force. If an external force investigation is to be pursued this should also be stated here.

Recording a rationale for the decision is at least as important as recording the decision itself. The Director of Investigations when completing their section of the MOI form should record the reasons for their decision. The prior recommendations of Casework Manager should be endorsed if relevant, or if the Director of Investigations decision is different to the preceding recommendations that discrepancy should be explained. In cases where legal advice has been sought as a part of the process leading to the MOI decision, a decision not to follow that advice in whole or in part should be made clear and the reasoning explained.

Part 7: Legal Team advice on DSI matters

If legal advice is required in order to make the MOI decision, the MOI form including comments from both the Casework Manager and appropriate decision maker should be forwarded to the DLS. Legal advice should be given on the MOI form. If legal advice is provided in a different format it should be transferred to the MOI form as soon as possible.

Part 8: Head of Casework grid for Local and Supervised cases

The Head of Casework is required to complete this section in order to indicate if Commissioner consultation is required on the referral.

Part 8 HOC Risk Grid for Local and Supervised cases
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CORE RISKS	Present(Y/N)	If 'yes' consult with commissioner	Comments
Especially Vulnerable complainant			
Voluntary referrals			
Significant media interest			
Specific community concerns			
DSI after contact where Art 2 is not engaged			
Issues on which the Commission, or the particular Commissioner, had identified a concern and asked to be engaged			

Part 9: Head of Casework Decision

Please refer to Part 6. The Head of Casework is obliged to make the same considerations as the Director of Investigations in the relevant section of the MOI form.

Part 10: Mode of investigation decision

This section should be completed by the relevant decision maker, they should provide their decision on the mode of investigation, and provide a clear rationale for that conclusion.