

Definitions of 'known factors' and 'core risks' relevant to MOI decisions

Known Factors

Fatal shooting

This factor applies wherever a shooting by a person serving with the police causes a death. This factor applies in such cases irrespective of whose death is caused.

Article 2 engaged

Article 2 outlines the right to life. Any case where Article 2 is engaged (for our purposes, where it is arguable that the person serving with the police knew or ought to have known that there was a real and immediate risk to someone's life and failed to take steps within their power to prevent that death) necessitates an investigation that is sufficiently independent of that state. Article 2 can also be engaged where someone has suffered life-threatening injuries – these are referred to as 'near miss' cases. In practical terms, if Article 2 is engaged, this will usually mean an IPCC independent investigation or at least an investigation by a different police force to the one from which the person serves with.

Article 3 engaged

Article 3 of the European Convention on Human Rights sets out that no one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Torture

Torture is deliberate inhuman treatment causing very serious and cruel suffering.

Inhuman or degrading treatment

Inhuman treatment is treatment that causes intense physical or mental suffering. Degrading treatment is treatment that arouses in the victim a feeling of fear, anguish and inferiority capable of humiliating and debasing the victim and possibly breaking their physical or moral resistance.

Corruption

This factor applies wherever a case exhibits what the IPCC's Statutory Guidance refers to as 'serious corruption'. That is:

- Any attempt to pervert the course of justice or other conduct likely to seriously harm the administration of justice, in particular the criminal justice system

- Payments or other benefits or favours received in connection with the performance of duties where a Magistrates' Court would be likely to decline jurisdiction
- Corrupt controller/handler/informer relationships
- Provision of confidential information in return for payment or other benefits or favours where the conduct goes beyond a possible prosecution for an offence under section 55 of the Data Protection Act 1998
- Extraction and supply of seized controlled firearms, drugs or any other material
- Attempts or conspiracies to do any of the above.

Death in custody

This factor applies in relation to the death of any person who has been arrested or otherwise detained by the police. This includes the death of any person that occurs while they are being arrested or taken into detention. The death may take place on police, private or medical premises, in a public place or in a police or other vehicle.

Firearm discharged – conventional

This factor applies wherever a standard munition has been discharged from a standard firearm, hence it should not apply in situations where only a taser or baton round discharge has taken place. This applies in relation to discharges by a person serving with the police, whether accidental or intentional, at any location.

Allegations against ACPO rank officers

'ACPO rank' includes Chief Constables, Deputy Chief Constables, Assistant Chief Constables or their equivalents and certain senior non-police staff. This factor applies where an allegation relates to the personal conduct of an officer or member of staff who is at ACPO rank. This factor does not apply where an allegation cites an officer or member of staff holding ACPO rank solely because of their hierarchical responsibility for an officer or member of staff whose conduct the allegation directly concerns.

Perjury

Perjury is the deliberate, wilful giving of false, misleading or incomplete testimony under oath. This factor applies in any situation where it is alleged that a person serving with the police has committed perjury.

Terrorism related

An allegation arises out of the use of police powers arising from terrorism legislation. Such legislation includes but may not be limited to the Terrorism

Act 2000, the Terrorism Act 2006, the Prevention of Terrorism Act 2005 or the Anti-Terrorism, Crime and Security Act 2001.

Assault using assigned equipment or other e.g. dog bites

This implies that an injury of any description is sustained owing to the use of any equipment that is regularly or occasionally issued to an officer or person serving with the police. This includes the use of a police dog, of handcuffs or of CS spray.

Cause of serious injury indicates police fault/negligence

The scenario suggests that serious injury has befallen a member of the public due to some failure on the part of the police, whether through action or inaction. Serious injury should be taken as defined in the IPCC's Statutory Guidance, 'Serious injury means a fracture, a deep cut, a deep laceration or an injury causing damage to an internal organ or the impairment of any bodily function'. For example, a dispute between neighbours entails a number of calls to the police making claim and counter-claim. Police take no action in respect of either party. One of the neighbours is later attacked and injured by the other; a broken arm. The implication is that if the police had taken earlier action this harm may not have befallen.

Serious injury from RTI or use of force

'Serious injury' should take the definition given in the IPCC's Statutory Guidance, 'Serious injury means a fracture, a deep cut, a deep laceration or an injury causing damage to an internal organ or the impairment of any bodily function'.

This factor may apply where a serious injury was sustained because of an active pursuit by the police (whether due to collision of a police vehicle or a pursued vehicle), an accident involving a police vehicle other than during a pursuit or the collision of a non-police vehicle following a discontinued pursuit. It doesn't matter whether the injuries are caused to a person serving with the police, a person subject of a pursuit or a member of the public not otherwise involved in the pursuit.

This factor may apply where serious injury is caused by the use of force by a person serving with the police upon any other person.

Discrimination

Discrimination may be an allegation of disparate treatment of an individual on the basis of their race, a disability, their gender, sexual orientation, their religion, their beliefs or their age. Alternatively discrimination may be the combination of a description of an individual in line with one of the six strands described above with language or actions so as to make that description pejorative. In either case, a perception that this was so is as important as demonstrable fact.

Linked with other criminal investigations

The allegation being referred relates to the same incident as is currently subject to an ongoing criminal investigation into the conduct of a person serving with the police.

Mental health (e.g. Mental Health Act s135/136)

The person who has been subject of police conduct can fall (by virtue of medical or self diagnosis) into categories where the provisions of the Mental Health Act could be applied.

Allegations against Superintendent/Inspector rank officers

This factor applies where an allegation relates to the personal conduct of an officer who is at the rank of Inspector or Superintendent. This factor does not apply where an allegation cites an officer at either rank solely because of their hierarchical responsibility for an officer or member of staff whose conduct the allegation directly concerns.

Self harm or near miss in custody

This indicator describes an incident in custody where a person has harmed themselves or has had to be restrained from harming themselves.

Previous similar allegations against force or officer

The allegation at hand suggests a pattern or trend of behaviour within a force or with an officer. Previous instances need not necessarily have been addressed by way of investigation or other means.

Sexual assault

The allegation implies any offence under the Sexual Offences Act 1956 to 2003.

Significant disagreement between force and IPCC

This applies in any case where, consequent to the referral at hand rather than any broader contention, there has been significant disagreement between the force and the IPCC. This may have been for example due to a delay in the referral, disagreement over the need to refer or for other reasons.

Vulnerable complainant

A vulnerable person can be defined as someone who has or may need support in order to enable or promote their independent living. This may be because of age (old or young), mental health considerations, a learning or a physical disability. A vulnerable complainant would be a person making a complaint or who is otherwise subject to alleged misconduct who falls into the category of vulnerable person.

Death following police contact

A death with an alleged causal link between contact with the police and the subsequent death. This does not include situations accounted as being following custody (unless it falls to be referred having been an apparent suicide that occurred within 48 hours of contact), due to shooting, or due to other direct action by the police (an RTI or use of force).

Distress/minor injury from RTI or assault

Minor injury is any injury less serious than those defined as serious injury in the IPCC's Statutory Guidance, 'Serious injury means a fracture, a deep cut, a deep laceration or an injury causing damage to an internal organ or the impairment of any bodily function'. Distress is any claim of non-physical harm.

This factor may apply where a minor injury was sustained or distress caused because of an active pursuit by the police (whether due to collision of a police vehicle or a pursued vehicle), an accident involving a police vehicle other than during a pursuit or the collision of a non-police vehicle following a discontinued pursuit. It doesn't matter whether the injuries are caused to a person serving with the police, a person subject of a pursuit or a member of the public not otherwise involved in the pursuit.

This factor may apply where minor injury or distress is caused by the use of force by a person serving with the police upon any other person.

Domestic violence

Allegations have arisen from circumstances involving domestic violence of any form. An officer does not need to have been directly involved in circumstances of domestic violence. This factor does not apply where the officer has themselves perpetrated domestic violence, a situation that would be covered under the various factors related to assault.

Excessive force

The alleged use of force without any demonstrable evidence. Use of force resulting in greater injuries would attract other factors.

Failures in duty

Alleged failure of a person serving with the police to perform an action that was expected of them. For example, failure to arrest a third party, failure to take a witness statement.

Involvement of alcohol or drugs

This factor applies where anyone in an incident that gives rise to a referral was under the influence of alcohol, drugs or other intoxicants.

Missing person

Allegations arise from a scenario of the police's response to a missing person.

Multiple officers/multiple complainants

The circumstances referred involve allegations from or against multiple officers or complainants.

Stop and search

Allegations arise from a scenario involving the use of stop and search powers. This factor does not apply in cases where the stop and search power used comes from the Terrorism Act or related legislation. Such a referral would attract the 'Terrorism related' flag described above.

Supervising officer

Allegations are being made against an officer of any rank who has supervisory (not necessarily line management) responsibility over any other one or more persons serving with the police.

Core Risks**Media Interest**

Any factor which could lead to an escalated interest from the media. This could be because the complaint/ incident involves a high profile person, or there is a theme to the complaint/ incident which has been in the media.

Public and community interest and concern

Any factor which could lead to escalated interest from the community local to the incident or the general public. This could be, for instance, where the complaint/ incident involved a person with a high community profile, for example a priest.

MP Interest

Is there likely to be, or is there currently any MP involvement? (If there isn't any MP involvement at the time of the complaint then assume, unless otherwise indicated, this is not relevant)

Confidence issues with the IPCC

Any aspect of the complaint or incident which could lead to public or complainant loss of confidence in the IPCC. This might be a local loss of confidence in the local IPCC presence, a national loss of confidence in the IPCC as an organisation or somewhere in between.

Confidence issues with the Police

Any aspect of the complaint or incident which could lead to public or complainant loss of confidence in the police's ability to uphold the law.

Confidence issues with the complaints system

Whilst there is a cut across with confidence in police and confidence in IPCC this can be seen as a distinctly separate issue and one that relates to a complainant's experience of the complaints process.

Force Profile factor

This is to represent experience or knowledge about a force that may impact negatively or present a greater risk which needs highlighting.