

Police investigations of complaints and notifiable incidents

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Executive summary

Public trust and confidence is the cornerstone for New Zealand Police. Police Integrity and Conduct Group plays a pivotal role in championing our Core Values (see PDF below) and [Code of Conduct](#) to help and support our staff to conduct themselves in accordance with legislation, Police policies and best practice.

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 [Our Values.pdf](#)

2.31 MB

The purpose of the policy is to provide staff with guidelines on the instructions and best practice for the requirements and standards of a Police investigation into complaints and notifiable incidents.

Police will ensure that complaints are investigated in a fair, timely, and effective manner without bias or conflict of interest; and all employees should be promptly advised of any allegations against them and their right to respond to the allegations and the final investigation outcome.

The key, critical points for staff to note are:

- Complaints must be investigated in a fair, timely, and effective manner without bias or conflict of interest.
- Police have an obligation to promptly notify the Independent Police Conduct Authority (Authority) of incidents and complaints pursuant to section 13 and 15 of the [Independent Police Conduct Authority Act 1988](#) (the Act).
- In addition to the statutory notification requirements, the Commissioner may notify the Authority of any matter involving criminal offending or serious misconduct by a police employee, where the matter is of such significance or public interest that it places or is likely to place Police reputation at risk in accordance with the [Memorandum of Understanding between New Zealand Police and the Authority](#) (MOU).
- The investigations of complaints and notifiable incidents must be conducted in accordance with the appropriate standards and best practices prescribed in this chapter.

Overview

Introduction

Police employees have a duty to perform their role in a manner that promotes the highest level of public trust and confidence in accordance with the Oath of Office, Solemn Undertaking and the [Code of Conduct](#).

Integrity and the public's perception of integrity are the cornerstones of providing unbiased and effective policing. It is therefore critical that all investigations into the conduct of Police employees originating from a complaint or notifiable incident are conducted to these standards.

Purpose

The purpose of this chapter is to:

- ensure that the standards for good practice of investigation are met;
- outline the minimum requirements for a Police investigation into complaints and notifiable incidents; and
- ensure that as an organisation Police manages any risk of accusations of bias so that we can demonstrate transparency in our investigation processes.

Key principles

These are the key principles underpinning the Police complaints processes:

- To ensure that complaints are investigated in a fair, timely, and effective manner.
- To ensure that all reasonable steps are taken to investigate complaints and notifiable incidents.
- To ensure that complaints and notifiable incidents are investigated within the guidelines of good practice, without bias or conflict of interest.
- All employees have the right to be advised of any allegations against them and the right to respond to those allegations.

Definitions

This table details definitions relevant to the investigation of complaints and incidents.

Commissioner	Means the Commissioner of Police.
Complaint	Means any formal allegation about the conduct of a Police employee, or issues concerning the practice, policy or procedure of Police made by members of the public or Police employees affecting the person or body of persons making the complaint in a personal capacity.
Facilitated case resolution	Means a discussion or meeting between a Police representative and a complainant, and may involve a resolution, including an apology if appropriate.
CHIS	Covert Human Intelligence Source (confidential informant).
District Commander	Includes Executive members and Directors.
District Practice Review	This is not a PPP review (see below). This is a lower level review of an incident at a District level to identify any issues at a local level, and to ensure that local practices follow policy.
Expression of Dissatisfaction	Means any request for information, or enquiry or expression of dissatisfaction, which is not intended by the person making the request or enquiry to be received by Police as a complaint, and can be resolved to the satisfaction of that person by way of explanation. An expression of dissatisfaction is not a complaint for the purposes of this policy.
Executive Member	Includes the Deputy Commissioners, Assistant Commissioners and Deputy Chief Executives.
Independence of investigation	Means an investigation that is free from an actual or perceived conflict of interest and which is appropriately managed in terms of this chapter. The investigation must be undertaken without predetermination or favour and in a manner that ensures that the overriding principles of fairness, impartiality, honesty and integrity are adhered to at all times, and to remove any indication of bias.
Investigation plan	An investigation plan describes the investigation process. It will translate the objectives from the Terms of Reference (if relevant) into a plan that sets out roles, responsibilities, timeframes, principal activities, critical decision points and objectives for any investigation.

Independent Police Conduct Authority categorisation	Refers to the category assigned to the investigation by the Independent Police Conduct Authority which determines their level of oversight and time frames for the completion of the Police investigation.
Notifiable Incident	(In terms of section 13 of the Independent Police Conduct Authority Act 1988 Act) means an incident involving death or serious bodily harm caused, or apparently caused, by a Police employee acting in the execution of duty
Police Investigation	Is an investigation into the conduct of a Police employee, and may be a criminal or employment investigation depending on the circumstances.
Policy, Practice and Procedure Review	A PPP review is NOT an investigation. It is a review to confirm that police policies, practices and procedures are "fit for purpose" and the level of compliance. A TOR must be issued and must be authorised by a Deputy Commissioner, the Assistant Commissioner: Districts or a delegate of either, e.g. a District Commander. Refer to the ' Policy, practice, and procedure (PPP) reviews ' chapter for advice.
Terms of reference (TOR)	Sets parameters of the investigation and must be agreed between a District Commander, Director, Assistant Commissioner or Deputy Commissioner, and the investigator in order to avoid any doubt as to the authority to act, the scope and the objectives. Terms of reference should also be consulted and agreed with the Authority where they have oversight of an investigation pursuant to section 17 (1)(c) of the Act.
The Act	Means the Independent Police Conduct Authority Act 1988 .
The Authority	Means the Independent Police Conduct Authority.

Independent Police Conduct Authority (IPCA)

Independent Police Conduct Authority Act 1988

The [Independent Police Conduct Authority Act 1988](#) (the Act) contains provisions relating to the notification, investigation, oversight and review of complaints and incidents which fall within the jurisdiction of the Authority.

Notification of complaints

The Act requires the Commissioner of Police to notify the Authority as soon as practicable but in any case within 5 working days, of every complaint or notifiable incident. The Act requires the Authority to notify the Commissioner of all complaints that it receives.

IPCA investigation categorisation

The Authority:

- categorises all complaints or notifiable incidents
- advises the Director: Integrity and Conduct if evidence gained during an investigation indicates that the matter should be re-categorised and reaches agreement
- may make a request for information to assist it in categorising the matter.

This table explains the four categories used by the Independent Police Conduct Authority:

Category	Description
Category A investigations (previously Category 1)	These are serious complaints where the Authority may decide to conduct its own investigation.
Category B investigations (previously Category 2)	These are serious or significant matters that are referred to Police for investigation with active oversight by the Authority and a full review of the file by the Authority at the conclusion of the investigation.
Category C investigations (previously Category 4)	These are matters that the Authority considers are appropriate for facilitated case resolution. They will be referred to the Police for conciliation with the complainant and investigation by Police as necessary. The Authority may deem a matter capable of early resolution and will endeavour to identify issues.
Category D investigations (previously Category 5)	These are minor matters or matters that require no further action by the Authority, however Police may need to assess the alleged behaviour to ascertain whether there are performance or conduct issues or learning that can improve Police service.

In some cases the Authority may conduct its own limited **Category A** investigation or direct the Police to

conduct a limited **Category B** investigation into an issue or element of a complaint or incident.

The Authority may consider and group a number of matters of complaints / issues identified together in order to release a thematic report about an issue.

Action on complaints

Under the Act, when the Authority receives a complaint, it may:

- receive, and if appropriate, independently investigate complaints regarding Police conduct
- investigate of its own motion, where it is satisfied there are reasonable grounds to carry out an investigation in the public interest, any notifiable incident
- oversee or review Police investigations of complaints or notifiable incidents
- take such action in respect of complaints, incidents and other matters as is contemplated by the Act.

Whilst Police will in almost all cases lead an investigation, the Authority may choose to conduct its own investigation or investigate in parallel with Police.

The Authority may require any person who is able to give information relating to any matter that it is investigating to provide all information and assistance needed for the Authority to carry out its functions.

Memorandum of Understanding with the Authority

In addition to the statutory notification requirements under section [13](#) and [15](#) of the [IPCA Act](#), the Commissioner may notify the Authority of any matter involving criminal offending or serious misconduct by a Police employee, where that matter is of such significance or public interest that it places or is likely to place the Police reputation at risk. The Authority may act on these notifications in the same manner as a complaint notified under section [15](#) of the [IPCA Act](#).

A common sense approach in determining if a matter should be referred to the Authority under the Memorandum of Understanding is to consider if the incident or matter will cause a loss in trust and confidence in the New Zealand Police.

See: [Memorandum of Understanding with the Authority](#)

Initial action on receiving a complaint

Principle

Every complainant must:

- be treated with courtesy, respect and compassion
- have their complaint received and actioned promptly
- be advised of the procedures for actioning their complaint.

Initial action

This table details what you must do when you receive a complaint.

If . . .	then . . .
a matter is not a complaint but rather an expression of dissatisfaction	you should make every effort, without delay, to resolve the matter to the satisfaction of the inquirer by way of explanation.
a complaint is made orally	the Police employee receiving the complaint must summarise it in writing or ask the complainant to do so, and get the complainant to sign it as soon as practical.
a person calls at a Police station or community policing centre	you make every effort to speak to the complainant and record the complaint in writing. You must not ask the complainant to return or call another day to deal with some other Police employee or section.
the employee subject to a complaint is the only person available at a Police station	you must record the complainant's details and promptly submit a brief report as to the circumstances to your District Police Professional Conduct Manager, District Commander or Director who will arrange for an independent employee to take the complaint.
a complainant is unable or reluctant to call at a Police station to make a complaint	you must advise the complainant that arrangements can be made for them to be interviewed elsewhere.
a complainant wishes their complaint to be received and recorded in the presence of a solicitor, friend or relative	you must facilitate that request.
a complaint is made on behalf of another person	you should see the actual complainant in the first instance to confirm the allegations and their wish for an investigation. In a case where a solicitor makes a complaint on behalf of a client, you should make any arrangements for the client's interview through the solicitor.
a complaint is made by a person in Police custody	you must ensure that questioning of the complainant relates solely to matters directly relating to the allegation. Unless there are compelling reasons to the contrary, you should allow the accused person's representative to be present during the interview.

Districts must notify complaints to the Director: Integrity and Conduct at [PNHQ](#) who in turn notifies the Authority. Districts must **not** notify the Authority directly.

Police employees receiving a complaint

If you receive a complaint you must refer it as soon as possible to your supervisor who will:

- issue appropriate instructions if the matter requires early attention
- refer the file to the District Police Professional Conduct Manager who will notify the Director: Integrity and Conduct.

Notifying serious complaints made against any Police employee

It is important that the Commissioner is notified immediately where any Police employee is the subject of a serious complaint.

Serious complaint defined

A serious complaint is a complaint, or issue of such significant public interest it puts or is likely to place, the Police's reputation at risk.

Examples of serious complaints or issues

Some examples of serious complaints or issues are:

- complaints against Police employees likely to generate significant media coverage
- complaints that would otherwise be considered not serious but involve Police employees who hold the position of inspector or above, or non-Constabulary equivalent level senior managers
- complaints that involve executive Police employees
- complaints against Police employees regarding **any** incident of a sexual nature.

How to notify

Where a complaint or issue arises (as described above) the employee receiving that information must immediately take steps to ensure the appropriate District Police Professional Conduct Manager, District Commander or Director is notified.

The District Police Professional Conduct Manager, District Commander or Director must notify the Director: Integrity and Conduct of the complaint or issue.

Information about Police received from CHIS

If information about a Police employee is received from a Police Human Source as part of a wider investigation, careful management of the information is required to ensure that the main investigation or the source is not compromised. It is also important to ensure the information is recorded and treated consistently to ensure that Police employees comply with the standards of behaviour as described in the Code of Conduct.

Process for handling information about employees received from CHIS

This table details the process to be followed when information is received about a Police employee from a Police Human Source.

Step	Action
1	Police Human Source handlers who receive information from a source about another Police employee that may give rise to an employment or criminal investigation, must record and submit that information to the <u>HSMU</u> following the standard Police Human Source sensitive information handling processes .
2	The HSMU enters the information. The Detective Inspector managing HSMU reviews it and determines whether or not the information requires further investigation. If it does, the information must be provided to the relevant District Police Professional Conduct Manager for their investigation, or in the case of sensitive or serious allegations, (see examples of serious complaints or issues in this chapter) sent directly to the Director: Integrity and Conduct. (See 'When <u>CHIS</u> information suggests misconduct by Police' in ' Part 3 Police Human Source Management ').
3	On referral to the relevant District or Director: Integrity and Conduct, the <u>HSMU</u> will provide expert advice on the handling of sensitive Police Human Source information reports.
4	District Police Professional Conduct Managers receiving a referral of information about an employee from a source must notify the Director: Integrity and Conduct as soon as possible and discuss the coordination and timing around any investigation, following categorisation of the information.
5	If a referral is made by the Detective Inspector managing HSMU to the Director: Integrity and Conduct, the Director must ensure that the relevant District Commander is: <ul style="list-style-type: none"> - informed about the information received - consulted before any major investigative decisions are made.
6	A review meeting must be held at <u>PNHQ</u> to decide whether or not the information is acted on, investigated (and if so by district or at a national level) or sanitised for a noting to be placed in the Integrity and Conduct crystal drive. (The ability to understand factors that, for example, may impact on an employee's suitability for promotion, overseas assignment and security clearances must be accessible via crystal drive national data base for review at the highest level).
7	As with all other complaints, any breach of the Code of Conduct will be investigated and may result in disciplinary action including dismissal.

Associated documents

The following documents are related to this policy:

- [Code of Conduct](#)

- Police Human Sources (CHIS and Confidential Informants)
- Performance management
- Adult sexual assault investigation (ASAI) policy and procedures
- People (HR) policies
- No surprises policy
- Unacceptable behaviour - Kia Tū policy and guidelines
- Gifts, discounts and hospitality
- Managing conflicts of interest
- Discrimination and harassment policy
- Disciplinary policy (includes the 'Disciplinary process guidelines')

Information about Police received from Crimestoppers

Anonymous information about police employees is received from Crimestoppers when the "Integrity Plus line 0800 463676 (INFORM) is contacted.

This information comes to Police Integrity and Conduct at [PNHQ](#) for action.

Process for handling information about employees received from Crimestoppers

This table details the process to be followed when information is received about a Police employee from Crimestoppers.

Step	Action
1	The information will be assessed; checks on other systems including NIA may be undertaken to determine validity.
2	A review meeting must be held at PNHQ to decide whether or not the information is acted on, investigated (and if so by district or at a national level) or sanitised for a noting to be placed in the Integrity and Conduct crystal drive. (The ability to understand factors that, for example, may impact on an employee's suitability for promotion, overseas assignment and security clearances must be accessible via crystal drive national data base for review at the highest level).
3	As with all other complaints, any breach of the Code of Conduct will be investigated and may result in disciplinary action including dismissal.

Associated documents

The following documents are related to this chapter:

- '[Crimestoppers](#)'

Standards of investigation

It is critical that our investigation standards into complaints against Police employees or notifiable incidents adhere at all times to good practice. The investigator must impartially investigate complaints or notifiable incidents involving Police employees in a timely, effective and objective manner, and follow these key tasks of investigation:

- Assess (confirm or negate) the potential criminal liability of any person identified during the course of the investigation. The investigator's assessment must include relevant Police policy and procedure specific to the circumstances.
- Assess (confirm or negate) the potential liability of any person identified during the course of the investigation under the [Code of Conduct](#).
- Document and report on findings including clear conclusions and recommendations.
- Consider the [Solicitor-General's Prosecution Guidelines](#) in terms of the test for prosecution and recommend whether or not to commence criminal proceedings.
- Have any decision around the filing of charges independently reviewed where appropriate. If charges are not recommended a report explaining the rationale of that decision is to be provided.
- Have any recommendation around disciplinary processes reviewed by the District Human Resources Manager or Senior Human Resources Advisor, and Police Professional Conduct Manager as outlined in the [Disciplinary policy](#) to the [Code of Conduct](#).
- Independent investigators (those brought in from outside a district in which a matter occurs) must report to the District Commander or Director in the district/service centre where the incident occurred, unless the line of command is specifically changed by the Commissioner in writing.
- Where investigators from outside of the district are deployed, agreed terms of reference must be signed by the District Commander or Director and the investigator to avoid any doubt as to the tasking and product of the investigation.

The District Commander or Director must be consulted before any major investigative decisions (such as arrest or charge of any employee) are made.

Management of investigations

Unless determined otherwise by the Commissioner, the overall responsibility for managing investigations into notifiable incidents or complaints against Police employees rests with the District Commander or Director of the Service Centre where the employee is normally employed.

Where an independent investigator is to be deployed, the primary responsibility for managing the investigation including reporting structures resides with the District Commander or Director of the employee under investigation. The Director: Integrity and Conduct will provide technical advice and guidelines to ensure a consistent and safe approach.

Investigation standards

A good practice standard must be applied to all investigations into Police employees and must be conducted in compliance with the Police Manual.

Employment investigations arising from complaints or notifiable incidents must be conducted by a

separate investigator and comply with the principles of good practice outlined in the [Code of Conduct](#) and [Disciplinary policy](#).

Category	Investigation requirements
Category A	<p>Investigation processes must include:</p> <ul style="list-style-type: none"> - an investigation plan - agreed Terms of Reference between the investigator and the District Commander or Director if appropriate in the circumstances - regular liaison with the complainant/victims, or their legal representation, in accordance with the Victims' Rights Act 2002 - regular liaison with the IPCA investigators including supply of information in accordance with section 24 - consultation with the Director: Integrity and Conduct or delegate - a declaration of Conflict of Interest under the 'Managing conflicts of interest' chapter - advise employee(s) of the nature of the complaint or notifiable incident unless it is inappropriate to do so - advise employees involved of the result of the investigation.
Category B	<p>Investigation processes must include:</p> <ul style="list-style-type: none"> - an investigation plan - agreed Terms of Reference between the investigator and the District Commander or Director if appropriate in the circumstances - regular liaison with the complainant/victims, or their legal representation, in accordance with the Victims' Rights Act 2002 - regular liaison with the IPCA investigators including supply of information in accordance with section 24 - consultation with the Director: Integrity and Conduct or delegate - a declaration of Conflict of Interest under the 'Managing conflicts of interest' chapter - dispositive letter to the complainant confirming the resolution of the complaint - advise employee(s) of the nature of the complaint or notifiable incident unless it is inappropriate to do so - advise employees involved of the result of the investigation.

Category	Investigation requirements
Category C	<ul style="list-style-type: none"> - The focus for these matters is conciliation. - It is intended that such cases are completed without the need for formal investigation, but by early engagement and negotiation with the affected parties. The focus of conciliation lies in resolving the complaint through mutual agreement, acceptance and understanding. - Where complaints are unable to be resolved in this manner, some inquiry may then be necessary to determine whether the complaint issue(s) should be 'upheld' or 'not upheld' as the case may be. <p>There must be:</p> <ul style="list-style-type: none"> - regular liaison with the complainant/victims, or their legal representation, in accordance with the Victims' Rights Act 2002 - a dispositive letter to the complainant confirming the resolution of the complaint at the conclusion - advise employees of the nature of the complaint or notifiable incident unless it is inappropriate to do so - advise employee(s) involved of the result of the investigation.
Category D	<p>It is intended that such cases are completed without the need for formal investigation, but by early engagement and negotiation with the affected parties. The focus of conciliation lies in resolving the complaint through mutual agreement, acceptance and understanding.</p> <p>There must be:</p> <ul style="list-style-type: none"> - regular liaison with the complainant/victims in accordance with the Victims' Rights Act 2002 - advise employees of the nature of the complaint or notifiable incident unless it is inappropriate to do so - advise employee(s) involved of the result of the investigation - a dispositive letter to the complainant confirming the resolution of the complaint at the conclusion if deemed necessary.
Request for Information	<p>A Request for Information (RFI) will be made by the Authority when they need further information in order to categorise a complaint. The RFI document is generated by the IPCA, and will contain specific questions or information required by the Authority. The following process is to be followed:</p>

Category	Step Action requirements
	<p>1 The RFI is to be assigned to an appropriate supervisor to complete. Do not forward the RFI document to the member complained about for completion.</p> <p>2 Respond to the questions or information requested by the IPCA. Record answers on the form and /or attach supporting appropriate documentation such as emails, jobsheets, Tactical Options Reports, FWS from prosecution file etc. Note that there is no requirement to take statements from witnesses during this process.</p> <p>3 If CCTV footage is requested, this should be saved in the folder: Operations data / PNHQ - 445 / IPCA download folder. Include a file path on the RFI document.</p> <p>4 Record any action that may have been taken to resolve the complaint during the RFI process. There may be pragmatic actions that can be taken where it is clear that Police have erred. For example, if the complaint concerns a failure to return the complainants property, then a pragmatic approach may be to have the property returned and apologise to the complainant. Note that if a dispositive letter is sent to the complainant at this point, there is no need for the templated paragraph about the complainant contacting the IPCA if they are dissatisfied, as the IPCA will cover this off in their letter to the complainant.</p> <p>If Police disagree with the complainant, it is not appropriate to contact them during the RFI stage. Complete the RFI document and return this as per step 7 below.</p> <p>5 If the matter has been resolved during the RFI process, include “finding and action taken” codes and “resolution” codes in the respective boxes.</p> <p>6 Complete the “Conflict of Interest Declaration” box.</p> <p>7 Any supporting documents and the RFI document must be submitted as one PDF document to your District PPC Manager.</p>

Minor complaint resolution

The Minor Complaint Resolution procedure seeks to achieve resolution of complaints in categories C and D that the Authority considers minor, in a manner which will be swift, economic on resources, consistent with the Act and focussed on conciliation.

These minor matters:

- are Police investigations in terms of section 22(1) of the Act
- are not subject to the secrecy provisions of section 32.

Note: There is no bar to disciplinary action or performance management for breaches of the Code of Conduct.

Timeframes

The investigation of any complaint must be completed within the timeframes shown in this table.

Category	Timeframe
Category A	90 days
Category B	90 days
Category C	60 days
Category D	45 days
Preliminary report	45 days

Extensions

Approval to extend the investigations due date requires the written consent of the Director: Integrity and Conduct.

Investigation updates

District Commanders or Directors must actively manage the investigations under notice to their command to ensure that effective updates are provided to the Director: Integrity and Conduct on a monthly basis on all investigations into alleged misconduct by Police employees assigned to their area.

For significant matters which are subject to the Commissioner's Notification, the District Professional Conduct Manager must ensure weekly investigation updates are provided to the Director: Integrity and Conduct.

The update must provide the status of the investigation, any significant development in the investigation, the expected timeline to complete and specify any outstanding tasks associated with that investigation.

Where the Director: Integrity and Conduct forms the view that the investigation update is either incomplete or indicates problems with the investigation the Director: Integrity and Conduct must escalate the matter for resolution to the Police Executive level where the investigation is being conducted.

Escalation rules

Where an investigation is not concluded within the specified timeframe or the specified investigation updates are not provided in accordance with the investigation requirements, the matter must be escalated to the Director: Integrity and Conduct.

Every effort should be made to keep the [IPCA](#) updated on current progress of investigations and timeframes. If outside timeframes, the PPCM should notify [PNHQ](#) of reason for delays.

Consultation during investigation

PNHQ groups

Assistant Commissioners, District Commanders, Directors, supervisors and investigators may at any stage of a complaint investigation contact the Police Integrity and Conduct, or Employment Relations group, [PNHQ](#) for guidance.

IPCA

The Commissioner may consult the [IPCA](#) on any Police proposal for action on a complaint before final reporting to the IPCA (section [20\(3\)](#)). Where any Assistant Commissioner, District Commander, Director or investigator wishes to consult the IPCA in terms of section 20(3) this must be done through the Director: Integrity and Conduct.

Outcome of investigations

Allegation finding codes

This table shows the allegation finding codes that must be used.

Serious misconduct	This has the same meaning as used in the Police Categorisation Form and the Code of Conduct. It can only be used therefore at the conclusion of a formal employment investigation and is a breach of the Code of Conduct that may result in a warning or dismissal.
Misconduct	This has the same meaning as used in the Police Categorisation Form and the Code of Conduct. It can only be used therefore at the conclusion of a formal employment investigation and is a breach of the Code of Conduct that may result in a warning, or performance or remedial action.
Undesirable conduct	Conduct that, while not to the standard expected or conforming to Police values, is not a breach of the Code of Conduct and therefore does not qualify for a formal employment investigation outcome such as a warning or dismissal, but will typically have a performance or remedial action.
Policy / procedure breach	The employee fulfilled their duty and responsibilities as best as they were able, but breached Police policy and procedure without malice or because of a lapse or lack of awareness. This will typically result in a performance or remedial action.
Duty / responsibility failure	The employee simply failed to follow Police policy and procedure, failed to follow a lawful instruction or failed to take necessary steps or action that is part of their duties. This will typically result in a performance or remedial action.
Poor performance	The employee's actions and behaviour, while technically not in breach of Police policy, procedure and values and fulfilling their duties or following a lawful instruction, were below the standard expected. This will typically result in a performance or remedial action.
Error in judgement	The employee's actions and behaviour, while technically not in breach of Police policy, procedure and values and fulfilling their duties or following a lawful instruction, had an unforeseen adverse outcome.
For monitoring	Although no formal finding, for whatever reason, can be reached following an investigation or there can be no investigation, there is on balance of probability some form of negligence, failure or breach by the employee that requires monitoring. Although the capability does not currently exist in IAPro, there may be the possibility of a future enhancement that will create a process around the use of this finding that will raise an alert if the allegation is repeated.

Not Proven	This is not a replacement for, and does not equate to, the old code 'CS2 Not upheld'. Not proven is intended to indicate neither proven nor disproven. No formal finding, for whatever reason, can be reached following an investigation. A typical example is when the employee resigns during process at an early stage, or if there are conflicting accounts with insufficient evidence to support either.
For recording	No formal finding can be reached because, for whatever reason, there will be no investigation. Typical examples include when a mentally impaired person has made complaints that are essentially incoherent or disturbed and there is no form of action available, or the complaint has been declined by the IPCA under section 18(2). It will still be included in reports and statistical analysis, and threshold counts for e.g. Early Intervention.
Not a Police employee	A complaint has mistakenly been made against Police. A typical example is when an incident or emergency is attended by multiple services and the subject of the complaint, while believed to be a Police employee, is actually from e.g. the Fire Brigade, ambulance service or Armed Forces.
Not at fault	It has been proven, following an investigation of some form, that the employee is free of blame.
Other redress available	The allegation, for whatever reason, cannot be resolved by NZ Police.
Withdrawn	The allegation has, for whatever reason, been withdrawn.

Further action: criminal

Criminal charges

Where evidence of an offence committed by an employee is disclosed it is expected that normal procedures will be followed unless there is very good reason not to.

In relevant circumstances, Police employees can also be prosecuted by way of infringement notice pursuant to transport legislation.

Director: Integrity and Conduct must be advised

Where a Police employee is arrested or is to appear before a court, the Director: Integrity and Conduct must be notified as soon as practicable.

Where it is proposed to not charge an employee suspected of having committed an offence, the District Commander must ensure that the test for prosecution detailed in the [Solicitor-General's Prosecution Guidelines](#) has been complied with. The file must be forwarded to the Director: Integrity and Conduct for consultation and review. A report outlining the rationale and decision not to prosecute must be provided.

During the course of the prosecution the Director: Integrity and Conduct must be provided with regular progress reports and consulted on any significant developments.

Proceedings in open court do not negate disciplinary proceedings against an employee. However, where disciplinary proceedings are contemplated (in addition to court proceedings) the Director: Integrity and Conduct must be consulted.

Independent prosecutor to be appointed

Once prosecution action has been initiated, and particularly when a not-guilty plea is entered, the District Commander or Director in consultation with the Director: Integrity and Conduct and Police Prosecution Service must appoint a suitably qualified independent prosecutor or engage a Crown Solicitor to prosecute on behalf of Police.

Further action: employment

Disciplinary action

Where a complaint is upheld and it becomes necessary to proceed against any employee for a breach of the Code of Conduct, the procedures prescribed in the [Code of Conduct](#) and [Disciplinary policy](#) must be followed.

See: [Solicitor-General's Prosecution Guidelines](#).

Further action: internal fraud, theft, and corruption

To maintain the trust and confidence of New Zealanders, Police must ensure it is vigilant about protecting its integrity. Internal fraud, theft and corruption threaten our integrity.

Police is committed to preventing, detecting and responding to fraud, theft and corruption threats.

Specific policy exists that details how such matters should be resolved including the investigation which should be followed.

See: '[Internal fraud, theft and corruption](#)'

False or withdrawn complaints

False complaint

A complainant should not be warned of the consequences of making a false complaint unless reasonable grounds exist for believing that the complaint is false and it is appropriate that a warning is given. Where a warning or caution is given, the reasons for doing so must be clearly endorsed on the complaint file.

Withdrawal of complaints

A complainant who wishes to withdraw their complaint must do so in writing.

Where a complaint has been withdrawn the investigator must report the reasons given by the complainant and be satisfied that the complainant has made an informed decision.

Despite the withdrawal of a complaint the District Commander or Director must consider whether there is any prima facie evidence of any misconduct or neglect of duty contained in the file and, if so, ensure that the matter is investigated and the appropriate action taken.

Handling requests for information held by Police Integrity and Conduct

Introduction

Police Integrity and Conduct holds information about complaints, incidents, and other matters. Some complaints are made directly to Police and some to the IPCA, and some information Police Integrity and Conduct holds relates to investigations in the absence of a complaint. This information may be requested under the [Official Information Act 1982](#) (OIA) or [Privacy Act 2020](#) (PA).

Some information is held by Police Integrity and Conduct on its own behalf, and some is held by Police Integrity and Conduct as an agent of the IPCA. How the information is held determines how Police handles the request - that is, whether Police must:

- make its own decision on the request under the OIA or Privacy Act, or
- transfer the request to the IPCA (only under the Privacy Act).

The IPCA and Police have agreed to the process below for responding to requests for complaint information.

Information types

- **IPCA information** is information held by Police solely as IPCA's agent (i.e. provided by the IPCA or created or obtained for the IPCA and not used or disclosed by Police for its own purposes)
- **Police information** is information held by Police on its own behalf (i.e. used or disclosed by Police for its own purposes - e.g. employment investigation - even if it is also provided to the IPCA)

Distinguishing information held by Police Integrity and Conduct

The table below differentiates what constitutes IPCA and Police information in the context of the complaint categorisation. It also guides how Police are to handle any request for information made under the OIA or PA as soon as the request is received.

IPCA Request or Complaint Categorisation	IPCA Information	Police Information
	<p>Response:</p> <ul style="list-style-type: none"> - Refuse request under OIA (s18 (g)) - Transfer request under PA (s43) - Provide explanation - agent and s32 IPCA Act (secrecy) <i>(see template responses below)</i> 	<p>Response:</p> <ul style="list-style-type: none"> - Decide whether to release or withhold under OIA or PA - Follow usual OIA/PA process <i>(see guidance below)</i>

<p>[Usually prior to categorisation, IPCA may make RFI to Police]</p> <p>s21(1) IPCA Act</p> <p>Request for Information (RFI)</p>	<p>Information that is not in the possession of or known to Police on the date at which the RFI is made, but that instead is generated as a result of an RFI</p>	<p>Information already in the possession of or known to Police on the date at which the RFI is made</p> <p>Information generated as a result of an RFI if used or disclosed for Police purposes</p>
<p>CAT A</p> <p>s17(1)(a) IPCA Act</p> <p>IPCA investigation</p> <p>[Note: IPCA has not relied upon section 17(1)(b) to seek a Police investigation on its behalf since 2007. Any historic s17(1)(b) documents are held by Police as the IPCA's agent.]</p>	<p>All information collected by the IPCA in the course of its investigation</p> <p>Reports relating to any parallel investigation by Police that are created at the request of the IPCA and provided to it</p>	<p>All other information obtained in the course of a parallel Police investigation</p>
<p>CAT B</p> <p>s17(1)(ab), (c), (ca) IPCA Act</p> <p>Police investigation</p>	<p>Any correspondence from the IPCA to Police during the course of Police investigation</p> <p>Any report either during the investigation or at its conclusion that is generated specifically for the IPCA and for no other purpose</p>	<p>All other information relating to a Category B investigation</p>

<p>CAT C s17(3) IPCA Act</p> <p>Facilitated resolution</p>	<p>Any material generated by the Authority and provided to Police for the purposes of determining an appropriate resolution of the complaint</p> <p>Any communication provided by Police to the Authority as to the agreed means of resolving the complaint</p> <p>Any material generated by Police and provided to the IPCA following an expression of dissatisfaction (EOD) to the IPCA</p>	<p>All other material relating to the disposition of a case under Category C, including any final report</p>
<p>CAT D s17(1)(d) IPCA Act</p> <p>IPCA - no action</p>	<p>Category D letters written by the Authority to both Police and complainant</p>	<p>Any other material relating to the disposition of a case under Category D</p>

Preparing Police's response to the OIA or Privacy Act request

1. IPCA information - template responses

If you decide the information is being held by Police solely as the agent of the IPCA (i.e. not used for Police purposes), you will either:

- (a) Refuse the request if it is governed by the OIA (the request is for official/non-personal information, or information about a third party), or
- (b) Transfer the request if it is governed by the Privacy Act (i.e. the request is for personal information about the requester)

Here are some phrases you may consider using or adapting in preparing Police's response to requests for information held by Police Integrity and Conduct on behalf of the IPCA:

...[Cite wording of request in response letter, and any relevant background as you see fit]

Your request [is for/includes] information held by Police on behalf of the Independent Police Conduct Authority (IPCA).

This information...[select most appropriate]

- ...comprises correspondence from the IPCA to Police

- ...was generated in response to a request for information from the IPCA for their purposes
- ...was generated for the purposes of oversight by the IPCA
- ...was created at the request of the IPCA and provided to the IPCA for its own purposes

[for OIA requests]

This information has not been used or disclosed by Police for its own purposes, and is held solely as the agent of the IPCA. As such, it is excluded from the definition of official information by paragraph (f) of section 2(1) of the Official Information Act.

Police therefore refuses your request pursuant to section 18(g) of the Official Information Act 1982 as the information is not held by Police, and Police cannot transfer your request to the IPCA because the IPCA is not subject to the Official Information Act.

You have the right to complain to the Office of the Ombudsman if you are not satisfied with Police's response to your request

[for PA requests]

This information has not been used or disclosed by Police for its own purposes, and is held solely as the agent of the IPCA. As such, pursuant to section 11(2) of the Privacy Act, it is treated as being held by the IPCA.

Police is therefore transferring your request to the IPCA pursuant to section 43(1) of the Privacy Act for their direct response to you. I will provide the IPCA with a copy of this letter and the relevant information you have requested. Please be aware, however, that the information may be subject to secrecy provisions under the IPCA Act 1988 (which overrides the Privacy Act).

You have the right to complain to the Office of the Privacy Commissioner if you are not satisfied with Police's response to your request.

2. Police information - standard OIA or PA responses

Where a request for information about a complaint is not held by Police Integrity and Conduct as the IPCA's agent, but is held by Police on its own behalf for its own use and purposes, Police has responsibility to respond directly to the requester.

Police will consider the request in the usual way and decide whether to release the information requested or whether there are grounds to withhold all or some of it. The '[Privacy and official information](#)' Police Manual chapter provides general guidance on responding to requests for information, and template response letters can be found at **WORD> Police Forms> Information Requests> Official Information and Privacy Act requests**.

Police's decision on any OIA or PA request for Police Integrity and Conduct information will depend on the facts specific to the case. However, where a real risk would be created if the information were disclosed, it is likely that a withholding ground under the OIA or PA will be available to protect the information and refuse the request. For example:

There are **conclusive reasons to withhold** where:

- disclosure would be likely to undermine an ongoing internal investigation - s6(c) OIA; s53(c) PA to **avoid prejudice to the maintenance of the law**
- disclosure would be likely to reveal the identity of an informant or threaten the safety of a Police officer or his/her family - s6(d) OIA; s49(1)(a) PA **endanger safety of any person**

There are other **good reasons to withhold** (subject to the public interest override in section 9 for OIA requests) where necessary to protect:

- information about a third party that they would not wish to have disclosed or it would be unjustified to disclose it - s9(2)(a) OIA; s53(b) PA **privacy**
- information where there was a mutual understanding at the time the information was provided in the course of an IPCA or Police investigation that it would be treated confidentially, or where a person has been or could be compelled to provide the information - s9(2)(ba) OIA **obligation of confidence** / s53(c) PA **maintenance of the law**
- the free and frank expression of opinions by officials - s9(2)(g)(i) OIA **maintain the effective conduct of public affairs** / s53(c) PA **maintenance of the law**
- officials from improper harassment - s9(2)(g)(i) OIA **the effective conduct of public affairs through protection from improper pressure or harassment** / s49(1)(a)(ii) PA **likelihood of serious harassment**
- legal advice - s9(2)(h)(i) OIA; s53(d) PA **legal professional privilege**
- **information relevant to criminal proceedings sought by a defendant - s18(da) OIA; s53(g)(i) PA information to be sought under the Criminal Disclosure Act**
- information that relates to the physical or mental health of the requester - s49(1)(b) PA **prejudice physical or mental health**
- evaluative material (compiled solely regarding employment or appointment suitability) - s50(1) PA **express or implied promise of confidentiality**

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