

APPENDIX 2

To accompany statement by IPCC Deputy Chair,
Deborah Glass



Corruption in the Police Service in England and Wales

Part 1

August 2011

Dear Home Secretary,

On 13 July 2011 you used your powers under Section 11 (2) of the Police Reform Act 2002, to request a report on the IPCC's experience of corruption within the police service in England and Wales. You requested that initial findings be provided by the end of August 2011, with a full report by the end of the year. This report provides our initial findings.

Policing in England and Wales is, as you know, based on the principle of policing by consent, which relies heavily on a relationship of mutual trust and respect between the police and the public. Trust is essential if the police are to receive information from the public which helps them to detect and combat crime. It is also essential to enable the public to feel able to seek the assistance and protection of police officers when necessary. The police have significant powers to intervene in our lives when they believe we need to be prevented from harming ourselves or others, or from committing acts of criminality. Their powers are such that there are even circumstances in which a police officer may lawfully take a life.

Given these powers, it is important that the public know that if police officers fail to uphold the very high professional standards expected of them, or break the law, their actions will be dealt with robustly. It is vital therefore that members of the public know how to make a complaint against the police, have confidence that the system will take their complaint seriously and believe it will be dealt with rigorously and fairly.

A key reason for the creation of the IPCC was widespread public concern about deaths and serious injuries in police custody and the policing of black communities. The predecessor body to the IPCC (the Police Complaints Authority) was not seen as sufficiently independent or robust in its oversight of the complaints system. Since the IPCC became operational in 2004, the Commission has investigated a significant number of cases which have caused high levels of public concern. These have ranged from deaths in custody, deaths and serious injuries following police contact through to

matters of serious corruption.

This report sets out:

- *A description of the IPCC, its powers and responsibilities*
- *Definitions of police corruption in current usage*
- *Data on referrals from the police to the IPCC*
- *A selection of corruption case studies*
- *Issues arising from corruption cases for the police service.*

It also identifies what will be covered in our more detailed report later in the year:

- *Further analysis of corruption referrals by individual forces over the past two/three years*
- *More detailed identification of the context in which corruption can flourish and issues/lessons to be learned by the police service*
- *The public's views of police corruption and its impact on their confidence in policing*
- *Progress on the phone-hacking related investigations described in paragraphs 4 and 6*
- *Proposals on the IPCC's powers and resources if the Commission is to investigate more police corruption in future.*

*Len Jackson
Interim Chair*

Introduction

1. In July 2011 unprecedented levels of public concern were expressed regarding allegations of phone hacking by News of the World journalists. A number of developments including arrests by the Metropolitan Police Service (MPS)¹, the discovery of emails held by lawyers used by News International and civil cases involving high profile individuals culminated in revelations that messages on Milly Dowler's mobile phone had been listened to and deleted during the time she was missing. This prompted an intense two week period of reporting of further matters, including allegations that unnamed police officers had received illegal payments in exchange for confidential information.
2. Parliament responded to these allegations in a number of ways. The Home Affairs Select Committee took evidence from key individuals - predominantly from the MPS; whilst the Culture, Media and Sport Select Committee took evidence from relevant News International senior personnel. Statements made to the House by both the Prime Minister and the Secretary of State for the Home Department, included announcements of several separate but related inquiries.
3. In addition to the Home Secretary using her powers under Section 11 (2) of the Police Reform Act 2002 to request a report on the Independent Police Complaints Commission's (IPCC) experience of investigating corruption in the police service, the Prime Minister and the Home Secretary also commissioned:
 - A judge-led inquiry into the culture, practices and ethics of the press and the extent of unlawful or improper conduct within News International and other newspaper organisations
 - An inquiry by Her Majesty's Inspectorate of Constabulary (HMIC) into undue influence, inappropriate contractual

¹ Arrests were part of Operation Weeting, the investigation into phone hacking allegations which re-opened in January 2011.

arrangements and other abuses of power in police relationships with the media and other parties

- An examination of the ethical considerations that should underpin the relationships between the MPS and the media, to be led by Elizabeth Filkin
- Work to examine whether the IPCC needs (i) greater powers, such as the power to question and compel police and civilian witnesses during investigations and (ii) a bigger role in investigating allegations about institutional failings of forces.

4. In July 2011, the IPCC received a number of specific referrals from both the MPS and the Metropolitan Police Authority (MPA). As a result of these, the IPCC is conducting the following investigations:

- A supervised investigation into allegations that unidentified MPS officers were paid by News of the World². The level of IPCC involvement will be reviewed as and when officers are identified
- An independent investigation regarding the relationship between Mr Neil Wallis and the Metropolitan Police Service's Director of Public Affairs, focusing on the circumstances under which the contract for senior level media advice and support was awarded to Chamy Media³
- An independent investigation regarding allegations that former Assistant Commissioner John Yates secured employment for the daughter of Neil Wallis⁴.

5. The IPCC also received referrals from the MPA relating to the conduct of the former MPS Commissioner, Sir Paul Stephenson, former Assistant Commissioner John Yates, former Assistant Commissioner Andy Hayman and former Deputy Assistant Commissioner Peter Clarke in relation to their involvement in the phone hacking

² Referral received from the MPS on 7 July 2011.

³ Referral received from the MPS on 19 July 2011.

⁴ Referral received from the MPA on 18 July 2011.

investigation⁵. Following an independent assessment, the IPCC's Deputy Chair concluded that these referrals did not amount to recordable conduct. The Commissioner's full decision is a matter of public record and is available on the IPCC website⁶.

6. In addition to the MPA/MPS referrals, the IPCC also received referrals from other police forces regarding alleged disclosures to newspapers and payments to officers. This includes a voluntary referral received from Surrey Police on 4 August 2011 regarding information they received alleging that a named Surrey officer gave information to the News of the World in relation to the investigation into Milly Dowler's murder in 2002. The Commission has a varying level of oversight of these investigations⁷.
7. All the investigations listed in paragraphs 4 and 6 are ongoing, and it would be inappropriate to comment any further in this report. The findings of these investigations will however be made public in due course.
8. During its lifetime, the Commission has received corruption referrals from a number of police forces. These have included both overt and covert referrals, further details of which are provided in the Referrals and Case Study sections of this report. More recently some of these referrals have been particularly high profile as the allegations have involved senior officers including those of the highest rank, i.e. Chief Constables and their deputies. Such cases are rightly viewed with considerable public concern and have tested public confidence in the police service.
9. Examples of cases involving chief officers that the IPCC has dealt with include:

⁵ Referrals received from the MPA on 18 July 2011.

⁶ http://www.ipcc.gov.uk/news/Pages/pr_170811_MPA.aspx

⁷ See paragraph 3 in Appendix A for further information.

- In 2007/8, the IPCC conducted an independent investigation into allegations made against the former Dyfed-Powys Chief Constable. The Chief Constable breached force policies in relation to misuse of the force computer system and in the way he used the corporate credit card entrusted to him. He also failed to attend some official meetings to spend duty time with the woman he was having a relationship with. The investigation established a number of significant failings in respect of the systems and processes in place surrounding the use of the force corporate credit card scheme, together with the failure to adhere to force policies over expenses claims. The Chief Constable resigned from his position so he could not be subject to the police conduct regulations
- In 2010, the IPCC conducted two investigations into allegations of irregularities in a North Yorkshire Police recruitment exercise. Amongst others, these allegations involved the Chief Constable and Deputy Chief Constable of that Force. The Chief Constable received a final written warning and the Deputy Chief Constable received management advice⁸
- More recently, during the preparation of this report, the IPCC received referrals relating to chief officers within Cleveland Police who had been arrested for allegations relating to misconduct in a public office, fraud by abuse of position and corrupt practice. Aspects of these referrals are currently subject to IPCC management and oversight.

10. Based on the IPCC's experience, it seems likely that corruption amongst police officers in England and Wales is relatively rare by comparison with some other jurisdictions. However, any allegation or finding of corruption impacts on the reputation and standing of all forces. The damage that can be done to all the professional, hard-

⁸ See case study in paragraphs 60-64 for further information.

working and dedicated police officers and staff by the corrupted few should not be underestimated.

What does the IPCC do?

11. The IPCC was established by the Police Reform Act 2002 and became operational in April 2004. It has therefore completed seven years as an operational body investigating incidents and complaints. Its primary statutory purpose is to secure and maintain public confidence in the police complaints system in England and Wales. In addition to this statutory responsibility, the IPCC also has in its guardianship role, an obligation to measure, monitor and where necessary, seek to improve the current system.
12. The IPCC is overseen by a Board of ten full-time Commissioners with investigation oversight responsibilities and two non-executive Commissioners. All are appointed by the Home Secretary. In 2011/12 the IPCC received a delegated budget of £34.3 million. As at 31 July 2011, it had 423 staff. Approximately 150 of these were responsible for investigations with a further 150 responsible for dealing with direct complaints and appeals.
13. In addition to the staff dedicated to investigations, the IPCC also has a small Intelligence Cell to support its role by analysing data and handling sensitive material. There is also a Customer Contact Centre which provides a service to members of the public who want to complain directly by phone, electronic form, email or letter or to receive advice about making their complaint to the local force. As part of this centre there is a telephone line for police officers and staff to report their concerns about corruption or other matters as "whistle-blowers". Each police force also has its own procedures in relation to whistle-

blowing. The IPCC line is used particularly by those who do not feel able to report matters within their own force⁹.

14. The IPCC investigates only the most serious complaints and allegations of misconduct against the police in England and Wales. In addition it handles appeals from people who are not satisfied with the way the local police service has dealt with their complaint.
15. In April 2006, the IPCC's remit was extended to include serious complaints relating to staff at the Serious Organised Crime Agency (SOCA) and at Her Majesty's Revenue and Customs (HMRC). In February 2008 the IPCC's jurisdiction was extended further to include serious complaints and conduct matters relating to officers and officials at the UK Border Agency (UKBA).
16. This report focuses on police corruption. The IPCC has however also conducted serious corruption inquiries into HMRC officers. The investigation into Operation Venison resulted from criticisms made when Mr Justice Crane halted the Customs and Excise Prosecutions Office prosecution into an alleged missing trader intra community (MTIC) fraud. Further information relating to this investigation can be found on the IPCC website. In addition, the IPCC independently investigated allegations that a HMRC employee deliberately disclosed sensitive information to journalists. A file of evidence was initially handed to the CPS in March 2009 with a subsequent file submitted in November 2009 for their consideration. In December 2009 the CPS advised that they would not be pursuing criminal charges in relation to this matter. The findings of the investigation were then passed to HMRC for use in the misconduct proceedings.
17. The IPCC was created following both public and political concern regarding the lack of an independent system to deal with complaints

⁹ Statutory protection for employees who whistle-blow is provided by the Public Interest Disclosure Act 1998 (PIDA).

and conduct matters within the police service. Particular public concerns in advance of the Commission's creation were centred around instances of deaths and alleged police brutality within custody and the policing of black communities.

18. The IPCC has, during the first seven years of operation, focused its resources on independently investigating deaths and very serious injuries¹⁰. This reflects the background to and reasons for its creation. These matters have a particular impact on the public's confidence in policing especially when the public are concerned that the police may have caused a death or failed to prevent it. The public's concern and the IPCC's role is reinforced by the requirements under the law relating to Human Rights for an independent investigation when it appears that the State (in the form of the police) may have caused a death by action or inaction or where an individual sustains a serious injury at the hands of the police or whilst in their custody. The events of the past month have reinforced the need for independent oversight by the IPCC. In August 2011 alone, independent investigations have commenced into the fatal shooting of Mark Duggan by MPS officers in Tottenham, the circumstances surrounding the death of Dale Burns following his arrest in Cumbria and the circumstances surrounding an incident in which one man became seriously ill in British Transport Police custody and another died following his arrest in Cheshire.

19. The Commission's experience of investigating cases and the public's expressed concerns have also prompted the IPCC to focus over the past five years on a number of specific themes. These have, for example, included people detained under Section 136 of the Mental Health Act 1983; domestic violence cases where it is alleged the police have failed to protect the victim despite prior knowledge of the threat; road traffic incidents where it is alleged the police have caused or failed

¹⁰ Of the independent investigations commenced in 2010/11, 52% related to a death. In 2009/10, 53% related to a death and in 2008/9, 54% related to a death.

to prevent the incident; and widespread use of stop and search powers where it is perceived their use is unfair or disproportionate.

20. The IPCC is undertaking a review of a number of referrals where it is alleged that individual police officers have abused their powers for sexual purposes. Findings and recommendations from this may be available for inclusion in the more detailed report. By using the IPCC's small research capacity, the power to supervise cases and our guardianship function, systemic issues have been identified to assist the police service to learn and improve and have given the public confidence that such incidents can be reduced.
21. Owing to its focus on deaths and serious injuries, the IPCC has, in the first few years of its life, relied predominantly on police forces to investigate allegations of corruption, whilst the Commission provided oversight or direction. The Commission judged that it did not have the capacity or capability to carry out complex corruption investigations, particularly those which require the use of covert methods.
22. The IPCC is a relatively small organisation. Each force has its own Professional Standards Department (PSD) with some having separate Integrity or Counter-Corruption Units. The sizes of these units are proportionate to the size of the force. The largest of these is the Directorate of Professional Standards within the Metropolitan Police which is approximately the same size as the IPCC, which has a remit covering policing across the whole of England and Wales. It is right to say therefore, that the bulk of resource and expertise in investigating police corruption sits with police forces themselves.
23. In 2009, the Commission took the decision that it would increase its oversight of corruption matters and would develop its capacity to provide greater oversight of such cases. As a result, during the last two to three years, the Commission has moved from supervision to

management of more cases and has used its full powers to undertake independent investigations in a small number of high profile cases.

24. Further information concerning the remit and background of the IPCC can be found at Appendix A.

Defining corruption

Legal definition

25. There is no authoritative single legal definition of the word 'corruption'.

26. The word 'corruptly' featured in various forms in the three corruption statutes known collectively as the Prevention of Corruption Acts 1889 to 1916, recently repealed by the Bribery Act 2010¹¹. However, the word was not defined by these statutes and nor does 'corruptly' feature in the new Bribery Act 2010.

27. There has been much judicial debate in various cases as to what the word means in the context of various corruption type offences. The Court of Appeal has held¹² that it is an ordinary word and as such would cause a jury little difficulty in ascertaining its meaning.

28. To this end, the Oxford Dictionary of English¹³ definition of 'corruption' is, 'dishonest or fraudulent conduct by those in power, typically involving briberythe action or effect of making someone morally depraved'. The dictionary defines the verb 'bribe' as 'dishonestly to persuade (someone) to act in one's favour by a gift of money or other inducement'.

29. Whilst the new Bribery Act does not include the word 'corrupt' or 'corruption' as part of particular criminal offences, it is certainly

¹¹ Bribery Act 2010 – s.17 and Schedule 2.

¹² See R v Wellburn (1979) and R v Harvey (1999).

¹³ 3rd Edition 2010.

designed to create criminal offences which most people would consider corruption type offences.

30. The Crown Prosecution Service (CPS) and Revenue and Customs Prosecutions Office (RCPO) have provided joint legal guidance on the prosecution of the various offences under the Bribery Act. The guidance summarises the Act as (emphasis added):

- Provid[ing] a revised framework to combat bribery in the public or private sectors, removing the need to prove acts were done corruptly or dishonestly
- Creat[ing] two general offences of bribing another person (“active bribery”) (s.1) and being bribed (“passive bribery”) (s.2)
- Creat[ing] a distinct offence of bribery of a foreign public official (s.6)
- Replac[ing] the need for Attorney General’s consent (for the statutory offences abolished) with the requirement for the consent of the Director of the relevant prosecuting authority [to prosecute the new offences created by the Act] (s.10).

31. The guidance states that the Bribery Act ‘...uses everyday language of offering, promising or giving (“active bribery”), requesting, agreeing to receive or accepting an advantage (“passive bribery”)’. The offences include the concept of “improper performance” as a key component to the offences being made out. Improper performance involves a breach of an expectation or “good faith”, “impartiality” or “trust” in relation to the function or activity carried out. The test of what is expected is a test of what a reasonable person in the UK would expect in relation to the performance of the type of function or activity concerned (s.5(1)).

32. In introducing this term of “improper performance”, together with the concepts of breach of an expectation of good faith, the Bribery Act is including within its criminal offences an important element of ‘corruption’, that being a breach of an expectation that a person will act

properly when discharging a particular function. The impropriety is linked to acting in bad faith or in a biased or prejudicial manner. Whether this impropriety has actually taken place, is linked to what a reasonable person in the UK would expect in relation to the performance of the type of function or activity concerned. This is trying to bring within the offences an assessment by the reasonable person as to how they expect a person to behave in relation to their particular function.

Police/law enforcement definitions

33. A number of police bodies have their own definition of corruption. The Association of Chief Police Officer's (ACPO) definition is, *'the abuse of one's role or position held in the service for personal gain or gain for others.'* SOCA / ACCAG's¹⁴ definition of corruption is very similar, *"any activity carried out by an individual for gain, favour, advancement or reward that is inconsistent with the proper practice of their office, employment or responsibility"*¹⁵.
34. There are echoes in these definitions of the Bribery Act concept of "improper performance" - the concept of behaving 'inconsistently with the proper practice' of a function or responsibility. The seven principles of public life also set out similar standards expected of those holding public appointments¹⁶.

IPCC definition

35. Police forces and police authorities are required by law to refer complaints or conduct matters to the IPCC if the allegation includes serious corruption¹⁷ which is defined in the IPCC's Statutory Guidance 2010 as including:

¹⁴ ACCAG stands for the ACPO Counter Corruption Advisory Group.

¹⁵ SOCA/ACCAG assessment of the threat to UK law enforcement from corruption - May 2010.

¹⁶ First report of the Committee on Standards in Public Life 1995.

¹⁷ See reg 2(2)(a)(iii) and reg 5(1)(c) of the Police (Complaints and Misconduct) Regulations 2004.

- Any attempt to pervert the course of justice or other conduct likely seriously to harm the administration of justice, in particular the criminal justice system
- Payments or other benefits or favours received in connection with the performance or duties amounting to an offence in relation to which a magistrates' court would be likely to decline jurisdiction
- Corrupt controller, handler or 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 drugs, firearms or other material
- Attempts or conspiracies to do any of the above¹⁸.

36. The list links some referable allegations to certain criminal offences and includes thresholds seeking to elevate the referral to the more serious end of the spectrum of improper behaviour. Concepts such as the making or receiving of payments or other benefits or favour received in connection with the performance of duties, has echoes of the "improper performance" element of Bribery Act offences. However, the list captures behaviour that is wider than that caught by the Bribery Act in the sense that it includes attempts to pervert the course of justice (regardless of the existence or otherwise of inducements to do so) and corrupt relationships between controllers/handlers and their informers.

The public's concept of police corruption

37. There is very little empirical research which explores the public's view or perceptions of police corruption. Much of what exists comes from outside the UK and reports on countries with very different experiences of policing and, arguably, more extensive problems of corruption. However, in 2007 as part of a wider public survey, the IPCC asked a

¹⁸ See paragraph 211 of the 2010 IPCC Statutory Guidance.

representative sample of adults across England and Wales about who should deal with cases of serious corruption. The findings showed that the vast majority of respondents (87%) believed that this should be dealt with by the IPCC.

38. The media can often reflect the public's concerns. An article in the Guardian in February 2010 reflected the public's concern very accurately. It stated 'growing concern over police corruption'; *"cases include officers spending tens of thousands of pounds of public money on themselves, passing confidential information to criminals, running property scams, stealing property, brutality, having sex with women whom they have arrested, blackmailing individuals on the police intelligence database, shielding a drugs baron and tipping off an organised criminal to help him stay one step ahead of the law"*.

39. These are of course the 'high level' cases – *tens of thousands of pounds* does not have to be tens of thousands to make it corruption in the media's or indeed in the public's eye. The gross misconduct admitted by the Chief Constable of North Yorkshire Police in May this year (2011) fuelled blanket media coverage and was seen by many as an example of corrupt behaviour by the most senior officer. Although no criminal offences were alleged the media did not make this distinction clear. It is not necessarily criminality therefore that influences the public's view of police corruption but the abuse of trust and the abuse of the power an officer holds in conducting his job as a police officer.

IPCC referrals data

40. This report has explained the requirement for cases which are sufficiently serious to be referred to the IPCC. In the last financial year the IPCC received over 2,400 referrals (of all types of incidents) from police forces and other law enforcement agencies. Over 15,000 referrals in total have been received since 2004. Table 1 in Appendix A

provides the volume of referrals made to the IPCC by year. The reduction in referrals for the first time last year is noted and seems to have been maintained in the first five months of this year. Analysis of the reasons for this is being undertaken.

41. Further data showing the number of independent and managed investigations started and completed is also contained at Tables 2 and 3 in Appendix A. The charts show a year by year gradual increase in independent investigations with a particularly large rise in independent investigations and a fall in the number of managed investigations being commenced in the last financial year. The latter change reflects the Commission's view that the public most value independent investigations and do not want the police to investigate the police following serious incidents.

42. In addition to handling referrals and conducting investigations, the IPCC also has responsibility for handling appeals and direct complaints from the public. Further data and comment on these areas can be found at Tables 4 and 5 in Appendix A.

Corruption referrals

43. As has been made clear, corruption is a difficult activity to define and indeed it can be approached differently by each police force and police authority. The IPCC Statutory Guidance sets out which cases should be referred by defining instances of serious corruption (as set out in paragraph 35). However, the current system requires forces and authorities to make a judgment that a case meets the threshold for referral to the IPCC and then to make the referral. The IPCC is reliant on them to do so effectively. In recent years work has been undertaken to improve the referral of these cases, involving a range of activities including working with the ACPO Counter Corruption Advisory Group and IPCC Commissioner-level meetings with anti-corruption leads within police forces. Further analysis of the nature of these referrals will be provided in the more detailed report to follow. This will include a

force breakdown of data, some information on issues and trends, the mode of investigation decisions and the outcomes of cases dealt with by the IPCC.

Overt referrals

44. Of the 2,400 referrals received during 2010/11, over 200 were classified as cases of serious corruption. A similar number of corruption referrals were also received in both 2009/10 and 2008/9.

Covert referrals

45. In addition to the main referrals system, cases of corruption may also be referred to the IPCC on a covert basis. This may be the most appropriate action in cases where those under investigation are not aware that they are suspected of wrong doing. The police service does not, however, refer every covert investigation into alleged wrongdoing by police officers and staff. Each force has to make an assessment in relation to the particular circumstances under investigation. The assessment is in two phases.

46. The first phase (into which most cases fall) is that in which it is determined **possible** that a crime is being committed by an individual serving in the police force. In these cases, the force concerned seeks fully to develop any intelligence in relation to that individual or individuals. The second phase is where the force concerned has assessed, based on the intelligence, that it is **probable** that the person serving with the police service is committing crime. At this stage, the force concerned will refer the matter to the IPCC for a recording decision. Decisions on how these cases should be investigated are made by suitably experienced and senior IPCC staff.

47. During 2010/11 the IPCC received 44 covert referrals. In 2009/10, 45 covert referrals were made and in 2008/9, 29 were made.

48. The IPCC recognises that it does not have all the skills or resources to carry out complex covert corruption investigations. Covert investigations require expertise in surveillance and technical support and such cases can take weeks, months and sometimes even years to conclude. Often it is the force itself that has the capability, capacity and investigative opportunities to develop covert investigations. It is recognised however that the public expect the IPCC to have oversight of these investigations. In addressing this expectation the IPCC will often supervise or manage a covert investigation and may re-determine the investigation to independent once it moves from being covert to overt in order to direct any criminal and misconduct proceedings and manage the public reporting of the case.

Corruption cases

49. The IPCC has dealt with a number of corruption cases. Those cited in further detail below highlight examples of the types of criminality and misconduct that has been identified and dealt with as a result of IPCC investigations. There are however many others, for example:

- The IPCC managed investigation into allegations relating to the widespread granting of exemptions for traffic offences committed by police officers within Surrey Police
- The Commission has also received a number of referrals relating to the abuse of powers by police officers, specifically allegations of sexual assault or inappropriate relationships with vulnerable individuals and misuse of police computer systems to initiate or further that abuse of powers
- It also appears, from a number of cases, that police corruption may be linked to drug/steroid supply and abuse.

50. It is fair to say that until July of this year when the phone hacking cases raised allegations that police officers had been paid by journalists for information, the IPCC had never received a referral or

undertaken an investigation into allegations that a police officer had been bribed by a journalist.

Specific case studies

51. Set out below are six specific cases that the IPCC has dealt with which have now come to a conclusion. The summary and outcome of each case are provided in this section. Lessons and recommendations arising from some of these investigations are detailed in the section which follows.

Police officer sentenced to life imprisonment for rape

52. In November 2010, a Northumbria police constable was convicted of two counts of rape, three indecent assaults and six counts of misconduct after he stood trial at Newcastle Crown Court. The officer was convicted following an investigation into his activities conducted by Northumbria Police's PSD and managed by the IPCC.

53. The investigation found that the officer used his position to assault women. The trial heard that he targeted vulnerable women, including heroin addicts and shoplifters, by offering to help them whilst they were in custody at Newcastle's Pilgrim Street police station. He then asked them for sexual favours. It was also established that the officer used police databases to trace potential victims.

54. Victims showed great courage in coming forward and giving overwhelming evidence against the officer and he received a sentence of life imprisonment.

Misuse of police databases to assist private investigator

55. In 2007, South Wales Police were alerted to the possibility that an employee had misused computer systems to assist a retired police officer who was now operating a business as a private investigator. An investigation was conducted by South Wales Police's PSD and supervised by the IPCC.

56. The operation identified links between a retired Detective Chief Superintendent who had established his own business and a retired Detective Constable who had rejoined the force as an administrator in a civilian capacity.
57. The police investigation was able to show that whenever the retired Detective Chief Superintendent's company took on a new client, the other retired officer now working as a force administrator would be contacted. The administrator would undertake checks on the police computer systems to provide information such as addresses, vehicles owned and any criminal record details.
58. The investigation also established that the force administrator had links with a known criminal. That association led to investigations into money laundering following the seizure of over £200,000 from the administrator's house when his premises were searched on his arrest for the unauthorised disclosure of information.
59. Following a successful prosecution the retired Detective Chief Superintendent was sentenced to eighteen months imprisonment and the force administrator received four years imprisonment.

Impropriety by police staff and ACPO officers in recruitment campaign

60. In March 2010 the IPCC began two investigations into allegations of irregularities in a North Yorkshire Police recruitment exercise. The allegations involved the Chief Constable, Deputy Chief Constable, a Police Constable and two members of Human Resources (HR) staff.
61. A managed investigation was conducted into allegations that HR staff had used their position to help both themselves and acquaintances to progress in the recruitment exercise, while the Police Constable was alleged to have assisted Police Community Support Officers (PCSOs) in the same way. This investigation resulted in the two members of HR

staff being dismissed, while the Police Constable received a final written warning.

62. An independent investigation was conducted into the allegation that the Chief Constable and the Deputy Chief Constable jointly assisted a relative in circumventing the first stage of the recruitment exercise and the further allegation that the Chief Constable had also assisted a member of his extended family. As a result of this investigation, the Deputy Chief Constable faced a misconduct meeting, while the Chief Constable faced a gross misconduct hearing – the first time for 34 years a serving Chief Constable had faced such a hearing.

63. The Deputy Chief Constable's misconduct meeting was held in December 2010. He was found to have breached the code of conduct on two counts in that he failed to challenge and report improper conduct and he was guilty of discreditable conduct. He received management advice.

64. The Chief Constable admitted gross misconduct on the opening day of his hearing in May 2011 and received a final written warning.

Police officer linked to organised crime

65. In October 2008, a serving member of South Wales Police became involved in a criminal conspiracy with three other men, which involved attempts to blackmail two businessmen in the area. An investigation was conducted by South Wales Police's PSD and managed by the IPCC.

66. The first case involved threats to an individual who was under surveillance in respect of drug dealing. He was informed that unless he paid £30,000, evidence would be supplied to the police which would support the case of drug dealing. At the same time the officer was involved in another plot to obtain £24,000 from a businessman who had previously been the victim of a robbery at his home, during which

his family were tied up by the offenders and robbed. The businessman was contacted by an accomplice of the officer who informed him that he would be the subject of another robbery. The accomplice therefore offered to provide protection including the services of a "bent" police officer with firearms experience. The businessman met the men offering the protection and the police officer and during the meeting the police officer produced a handgun.

67. The police officer was arrested, and eventually admitted his involvement in the offences. He subsequently agreed to provide evidence against his co-conspirators. Whilst on bail for the offences, he was dismissed from the police. At a criminal trial, he received four years imprisonment.

Corrupt practices to encourage prisoner to admit offences

68. Two Cheshire Constabulary officers were investigated for breaches of policies and procedures in relation to their dealings with a prison inmate. The two Detective Constables collected the man, who was on remand at HMP Altcourse, on 31 January 2008 with the intention of attempting to clear up unsolved car crime in the Nantwich area.

69. It was alleged that the prisoner was given a list of offences to admit to and was allowed to meet his girlfriend. It was further alleged that the prisoner brought drugs and a mobile phone into HMP Altcourse following the interaction with the police officers. Activity around the prisoner's cell following his return raised suspicions with staff there. These concerns were relayed to Cheshire Constabulary and the matter was referred to the IPCC. A decision was taken to conduct an independent investigation.

70. IPCC investigators interviewed a number of people, including inmates at HMP Altcourse and police officers. They analysed CCTV footage and records of mobile phone calls and interrogated Cheshire

Constabulary's policies and procedures. As a result of the investigation, both officers received written warnings.

Widespread misuse of corporate credit cards

71. In November 2007, an investigation was conducted by the Directorate of Professional Standards of the MPS and managed by the IPCC into the misuse of corporate American Express cards for personal reasons by MPS employees.

72. The investigation was extensive owing to the fact that there were 3,530 corporate credit card holders within the MPS, and all accounts were subject of review. A total of 58 members of staff were the subject of a criminal/disciplinary investigation and outcomes were as follows:

- Nine MPS employees were charged with criminal offences and six were convicted
- Eight officers were subject to misconduct hearings
- 24 officers and staff were provided with misconduct findings at the level of written warning, words of advice or management action
- 17 cases were assessed as being no further action.

73. These case studies provide just some examples of corruption that have come to light in IPCC investigations. Further examples and an assessment of the context in which corruption can flourish will be provided in the next report.

Lessons identified and recommendations made for the police service

74. To date the IPCC has not conducted a thematic study of corruption in the police service. Opportunities for learning have been identified from the investigations undertaken by the Commission and where it has been appropriate, specific recommendations have been made to

forces. Examples of some of this learning and associated recommendations are set out below.

Supervision and leadership

75. The IPCC has found that in several cases wrong doing has not been detected owing to lack of or inappropriate supervision. There has been a failure to identify issues that lead to officers being involved in criminality. Particular cases highlighted that:

- The suspected cause of an officer becoming involved in criminality was his personal financial circumstances. The Commission recommended that the force create a debt policy to ensure that anyone in this situation could be detected and helped
- Lack of action by senior managers in response to “whistle-blowing” allowed further incidents to occur; the perceived lack of positive and decisive action had a negative effect on others. It was recommended that the force provide advice to all senior managers as to the expectations on them.

Misuse of computer systems

76. The IPCC’s experience also shows that in many cases computer systems have been misused by individuals either for criminal activity or personal gain. Detection of this misbehaviour was hampered in several instances as there was no audit trail to identify who had accessed a system and for what purpose. Lack of system safeguards has, in some cases, aided the misuse. Following one investigation which uncovered the misuse of a police system by a senior constable, the following recommendation was made:

- All officers and support staff should be regularly reminded of the restrictions on viewing personal data or police data for personal reasons and the consequences of breaching the legislation. The force was also asked to ensure that access to data could be audited to identify by whom, for what reason and under what

authority. Staff should be informed of this audit process in an effort to minimise inappropriate or unlawful access to such data.

Policies and procedures

77. The IPCC has found that individuals have been able to claim inappropriate expenses or act criminally because the policy within the force was not sufficiently robust to ensure that this behaviour was prevented. Expectations of individuals have also not always been clear. This has enabled ambiguities within policies to be exploited. Particular recommendations made by the IPCC have included:

- Asking a force to review the policy in relation to the production of persons from prison. The IPCC felt that the policy was not clear about the expectations relating to the management of the prisoner whilst outside the prison and/or custody suite
- Asking a force to review the corporate credit card policy to look at the following areas:
 - Improving governance and oversight of issuing cards
 - Applying spending limits to different roles
 - Reducing the time to claim reimbursement
 - Improving supervision of claims
 - Ensuring that officers cannot claim twice for the same expense
 - Providing external oversight to randomly dip sample claims
 - Ensuring the financial policy has a single owner and location.

78. Since its inception, the IPCC has been keen to ensure that the police learn lessons from investigations and complaints so that the public can have confidence that incidents will not recur and policing is improved. Recommendations are made to individual police forces and their authorities and it is for those forces and authorities at a local level to determine how best to implement the recommendations made. The IPCC Commissioner for the force will review and discuss progress on implementation with chief officers and with the relevant police authority.

79. Additionally and as recommendations made to an individual force may well be relevant to all forces, in 2006 the IPCC formed a Learning the Lessons Committee. This comprised the key police organisations, along with HMIC and Home Office officials and its purpose was to review and identify from investigations, evidence of systemic failures and the lessons to be learned for the police service nationally. Learning the Lessons bulletins have been issued since 2007 summarising what went wrong in particular cases and making recommendations for changes for the future or identifying areas of good practice which should be adopted by others. These bulletins plus occasional research documents on themed issues of concern have been well received by the policing community and wider community groups with specific interests. It is clear that all forces have arrangements in place locally for the relevant senior staff to consider the findings and recommendations and take action as required.

Conclusions and next steps

80. This report sets out, in high level terms, what the IPCC's experience of investigating corruption within the police service of England and Wales has been so far:

- The public's confidence in policing is badly damaged by a range of police "bad behaviour" which the public regards as inappropriate and corrupt
- Corruption referrals to the IPCC have covered a very wide range of behaviour and have also been across all ranks, including the most senior officers
- There has not been, until July 2011, any referral of a police officer receiving payments for information from journalists
- Issues and lessons to be learned by the police service have included supervision and leadership, misuse of computer systems and policies and procedures
- Since its establishment in 2004, the Commission has focused its resources mainly on investigating incidents where a member of

the public has died or been seriously injured and where it was alleged that the police caused the death/injury or failed to prevent it. Recent events and the public's concern emphasise the need for this to continue to be the highest priority for the Commission

- In more recent years, the IPCC has had increased oversight or investigation of corruption matters but, given limited available capacity, these cases have remained relatively few in number
- The report makes clear that rooting out corruption is the shared responsibility of leaders in the police service and the IPCC. The bulk of resource and skill for tackling police corruption currently lies in police forces at a local level
- At present the Commission does not have the capacity or the capability to undertake more independent investigations into alleged corruption, particularly if they require covert methods.

81. Our second report, which will follow before the end of the year, will provide further analysis of referrals and identification of issues and lessons to be learned from such cases. It will also comment on the public's views of police corruption and its impact on wider confidence in policing. Where possible it will provide progress on the phone hacking related investigations. It will bring together the work relating to the IPCC which was commissioned in the wake of the phone hacking scandal and explore what further powers and resources would be required if the IPCC were to take a greater role in the investigation of corruption issues in the future.

Appendix A – further details concerning the IPCC's remit and referrals data

Remit

1. The IPCC is independent and by law, the IPCC Chair and Commissioners can never have worked for the police service in any capacity. Decisions are made independently of the police, Government, complainants, and interest groups. This means that:
 - All complaints must be dealt with in accordance with legislation and the guidance issued by the IPCC and agreed by the Home Secretary
 - All complainants who have their complaints dealt with by the police in the first instance have a right of appeal to the IPCC
 - The most serious incidents and complaints are independently investigated
 - Outcomes of IPCC investigations are made public, as are local and national recommendations, in order to ensure that mistakes are not repeated.

2. The IPCC was not created to handle or investigate all complaints against the police. Complaints are recorded by an appropriate authority, which in the majority of cases is the relevant Chief Constable. The force then has to decide whether the complaint reaches one of the “mandatory referral criteria” set out in legislation. These are:
 - Any complaint where there is an allegation that the conduct complained of has resulted in death or serious injury (DSI)
 - Serious assault by a person serving with the police
 - Serious sexual assault by a person serving with the police
 - Serious corruption

- Criminal offence or behaviour which is liable to lead to a disciplinary sanction and which, in either case, is aggravated by discriminatory behaviour
- That a 'relevant offence' has been committed
- Complaints or conduct matters which are alleged to have arisen from the same incident as anything falling within these criteria.

All complaints that are determined not to meet the above criteria are handled by the force. The IPCC maintains independent oversight by offering varying rights of appeal for the complainant.

3. Once a complaint or allegation has been referred to the IPCC, a 'mode of investigation' decision is made to determine how the matter should be investigated. There are four possible modes of investigation:

- Independent investigations - carried out by IPCC investigators who have all the powers of the police and are overseen by an IPCC Commissioner
- Managed investigations - conducted by the police under the direction and control of the IPCC
- Supervised investigations - carried out under the direction and control of the police. The IPCC will set the terms of reference and receive the investigation report when it is complete. Complainants have the right of appeal to the IPCC following a supervised investigation
- Local investigations - carried out entirely by the police. Complainants have the right of appeal to the IPCC following a local investigation.

When making the mode of investigation decision the IPCC takes a number of factors into consideration. It is the public's expectation that an independent investigation is necessary when dealing with the most

serious complaint and conduct matters, certainly those involving deaths after police contact and serious police corruption.

4. Furthermore, in Article 2 ECHR cases¹⁹ there is an obligation on the state to ensure that an effective official investigation is carried out. The form of investigation is flexible, but in England and Wales the IPCC assists in ensuring independence by using its own investigators to carry out Article 2 engaged investigations. This legal requirement for independence has been strengthened by the case of *Ramsahai v the Netherlands*²⁰ which found that the use of a police force to investigate death cases where its own officers had been involved in the police operation leading to the death was a violation of the investigative obligation under Article 2 because it lacked the necessary independence.

5. Article 3 of the ECHR which prohibits torture and inhuman or degrading treatment or punishment is also a consideration in determining whether the IPCC should investigate a matter. Cases may be referred to the IPCC that arguably engage Article 3 but the IPCC may be less involved in these cases because there is no legal obligation to investigate independently (independence can be provided in a variety of different ways)²¹. Article 3 is only engaged when the injury sustained (be it

¹⁹ Article 2 of the European Convention of Human Rights (ECHR) “..imposes two distinct but complementary obligations on the state...[T]he first is a substantive obligation not intentionally to take life, and also to take reasonable preventative measures to protect an individual whose life is at risk...The second is an adjectival procedural obligation to investigate deaths where arguably there has been a breach of the substantive obligation.” (See Lord Woolf CJ in *R (Amin) v Secretary of State for the Home Department* [2002] EWCA Civ 390; [2003] QB 581 at [1]). The minimum requirements of the procedural obligation to investigate an arguable article 2 violation include: (a) the authorities must act of their own motion; (b) the investigation must be independent; (c) the investigation must be effective in the sense that it must be conducted in a manner that does not undermine its ability to reach the relevant facts; (d) the investigation must be reasonably prompt; (e) there must be a ‘sufficient element of public scrutiny of the investigation or its results to secure accountability in practice as well as in theory; the degree of public scrutiny required may well vary from case to case’ ;(f) there must be involvement of the next of kin ‘to the extent necessary to safeguard his or her legitimate interests’ (see *R (D) v Secretary of State for the Home Department* [2006] EWCA Civ 143 at [9])

²⁰ (2007) 46 EHRR 983, GC, the European Court of Human Rights

²¹ *R (on the application of Morrison) v Independent Police Complaints Commission* [2009] EWHC 2589 (Admin)

physical or psychological) attains a minimum level of severity. The assessment of this minimum is relative: it depends on all the circumstances of the case, such as the duration of the treatment, its physical and/or mental effects and, in some cases, the sex, age and state of health of the victim. In respect of a person deprived of his liberty, recourse to physical force which has not been made strictly necessary by his own conduct diminishes human dignity and is in principle an infringement of the right set forth in Article 3. However, Article 3 can be engaged (depending on the circumstances) where the injury sustained is relatively minor (including scratches, tenderness and bruising).

Referrals data

Table 1

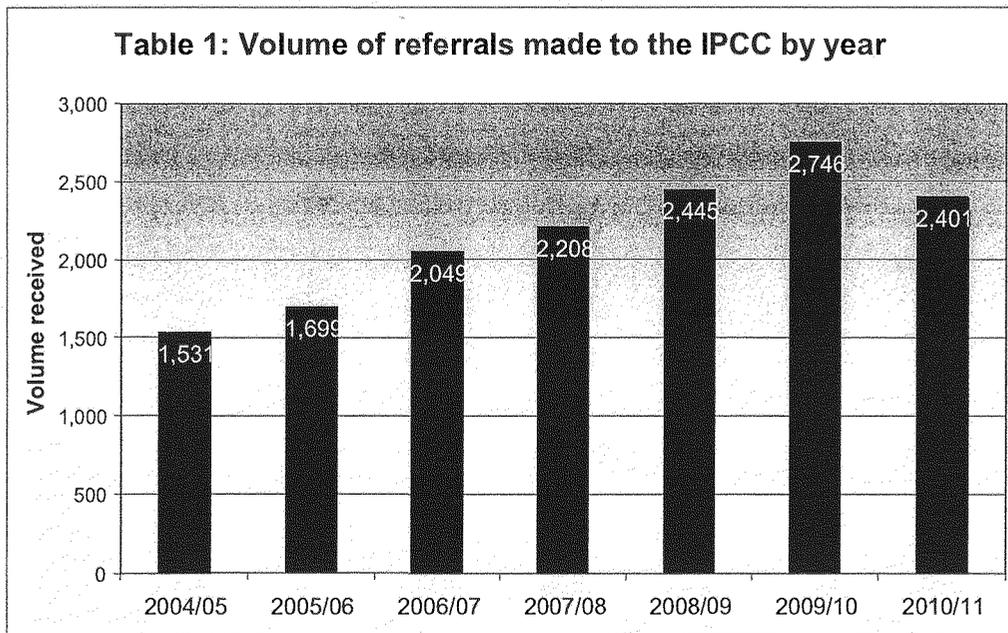


Table 2

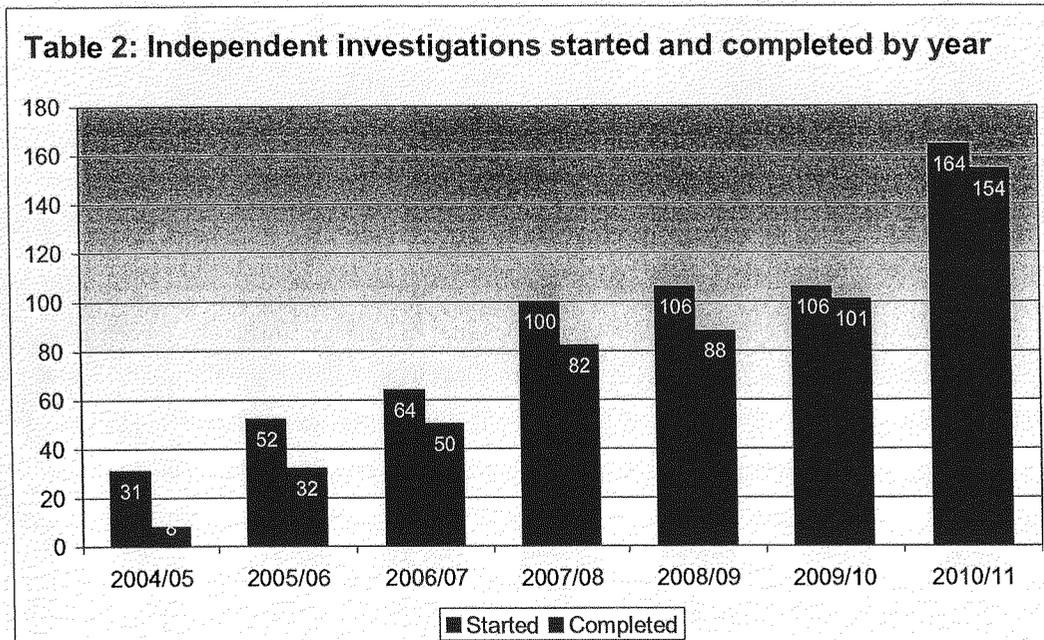


Table 3

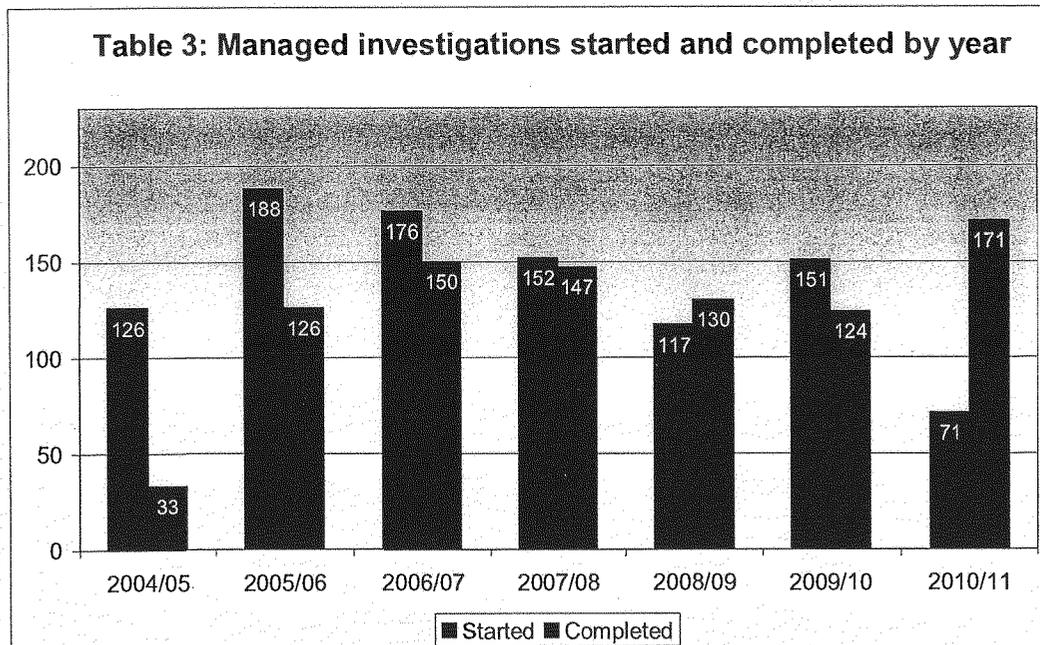


Table 4

6. An appeal can be made against the failure of the force to record a complaint, the local resolution process or the outcome of a local or supervised investigation. The table below presents the number of appeals received by the IPCC since 2004/05. It shows that over 6,300

appeals were received during 2011/12. This represents an increase of 13% compared to the previous year and forms part of an upward trend in the number of appeals the IPCC receives.

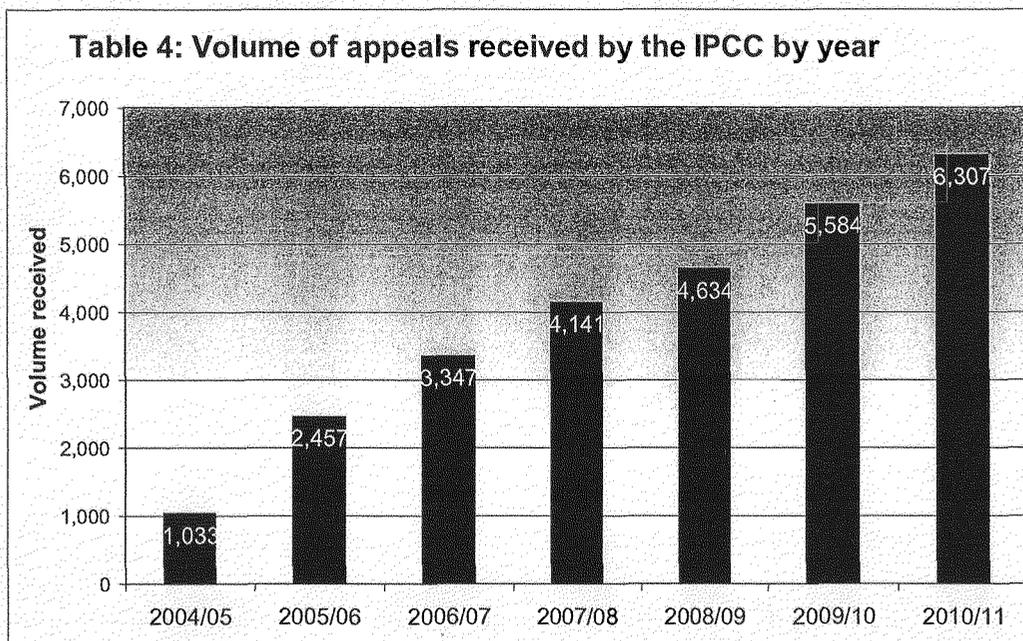


Table 5

7. The IPCC also receives complaints about the police from members of the public. These are made to the IPCC, rather than the police force concerned, for a number of reasons. These range from it being easier to complain to the IPCC, through to fears regarding the consequences of complaining about the police. The IPCC does not have the power to record complaints – this must be done by the force concerned. On receipt of a direct complaint, it is the IPCC’s role to seek the complainant’s consent and forward the complaint on to the force. Table 5 presents the number of complaints made directly to the IPCC since 2004/05, and the number which were then forwarded onto the relevant police force. The 2010/11 figures show a fall of 16% compared to the previous year. The reason for this decline may be two fold. The IPCC’s revised Statutory Guidance which encourages police forces to make it easier for complaints to be made locally was published at the start of

the year. In addition, the Commission has also started to implement an Access Strategy which sets out how services are offered to customers and stakeholders and has improved the information provided to complainants about how best to access the police complaints system directly at a local level.

