

HOW TO MAKE A FORMAL COMPLAINT AGAINST THE POLICE

In order for us to properly assess your claim we recommend that you make a formal complaint to the IPCC (Independent Police Complaints Commission).

Whilst many people are keen to start their claim immediately, making a complaint at an early stage can have many benefits including shortening the length of the claim when it is started.

A complaint should be made as soon as possible and doing so poses no financial risk to you. The police may respond with an admission of fault or an appreciation that a particular situation could have been handled differently. The complaint response can provide valuable information which we can form the basis of your claim, allowing us to anticipate any key points of dispute that may arise at a later stage.

We understand that this may appear to be a daunting task, however, we hope that with the aid of this guide and the assistance of one of our specialist lawyers we can make the process as simple and as stress free as possible.

What can you complain about?

Complaints against the police usually fall into two categories, those being complaints against one or more police officers or complaints about how the police operate. The different types of complaint will be dealt with in different ways.

Who are the IPCC?

The IPCC are a public body independent of any individual police force and are responsible for governing and overseeing the system of complaints made against the Police Forces in England and Wales.

What the IPCC cannot do is order that compensation be paid and should you ask them for this as a remedy, then it is likely that they will refuse to investigate your complaint and instead suggest that you contact a lawyer.

Whilst the IPCC is responsible for overseeing the police complaints system, only certain complaints involving death, serious assault or sexual offences will actually be investigated by them directly.

Everything else will be dealt with by the Professional Standards Department of the relevant police force who will provide you with a formal written response detailing the outcome of their investigation.

When should I make a complaint and what information should I include?

If possible your complaint should be submitted in writing within 12 months of the alleged misconduct and contain all relevant information (see below) to enable your complaint to be fully investigated.

You should include the following information:

- Your full name and address.
- The name of the Police Force you wish to be subject to the investigation.
- Details of the allegations and complaints you are making together with the outcome you are seeking. For example, specific officers to be disciplined.
- Details of why you feel the Police have acted inappropriately or outside their powers and what you would have expected them to have done differently.

Common examples of misconduct that you may have been subjected to include:-

- Being wrongfully arrested and detained in police custody.
 - The feeling that you may have been detained in custody longer than was necessary for the police or Crown Prosecution Service to charge, bail or release you.
 - Being assaulted by a member of the police.
 - You were prosecuted but you either won the case or it was discontinued and you now consider or did at the time of the initial charge, that the police never had any real reason to suspect you were guilty but attempted to build and bring a case against you anyway.
 - A failure by the police to properly investigate allegations against an individual leading to you or family members suffering harm at the hands of that individual at a later date.
- A list of any specific questions you would like them to answer.

Attached for your assistance is a simple example of how to set out your complaint. Please be aware that the scenario set out in the example is fictitious.

When you have finished your draft complaint, one of our specially trained lawyers would be more than happy to consider the content and provide additional assistance prior to sending the final copy to the IPCC.

If this is a service you consider you may benefit from please email a copy to ***policecomplaints@hudgellsolicitors.co.uk***

Once we have considered your complaint and you are a happy with our recommendations please forward a copy to:

enquiries@ipcc.gsi.gov.uk

Alternatively you may wish to post a hard copy to:

Independent Police Complaints Commission
PO Box 473
Sale
M33 0BW

What will happen next? When will I received a response?

Once the complaint has been lodged, the IPCC will provide you with an initial acknowledgement.

If the decision is made to refer it to the Professional Standards Department you can expect a response within 15 working days as to whether or not the complaint is to be investigated, together with the reasons for the decision and how it is to be investigated.

Regardless of whether the IPCC decide to refer your complaint to the Professional Standards Department there is always the chance that once they have reviewed it further, it may become apparent that due to the serious nature of the allegations a referral back to the IPCC is required.

If the Complaint is dealt with by the IPCC what are the potential outcomes?

- The IPCC has its own investigators who carry out independent investigations.
- The investigation carried out will involve taking witness statements from police officers or members of police staff, analysing CCTV footage and obtaining other documents and records. They may also wish to take a statement from you as well. If they do, we recommend you send the draft statement to us before signing it so we can consider the contents.
- At the end of the investigation you will be provided with a report which will set out the findings and conclusions. It will also include a clear indication as to whether there is a case to answer for misconduct or poor performance. If there is a suggestion that a member of the police has committed a criminal offence the report will also be forwarded to the Crown Prosecution Service who are responsible for deciding if a person should be prosecuted.
- In the unfortunate event that your complaint against the police was in relation to a death and an inquest is to be held the IPCC will also provide their report and evidence to the Coroner to be considered at the inquest.

If the complaint is to be dealt with by the Professional Standards Department what are the potential outcomes I can expect?

There are two levels of investigatory procedures that the police force subject to investigation may consider employing. The procedure followed will depend on the nature of the allegations and if proved the element of redress available to them.

The two levels of investigatory procedure are:

1) Local resolution

- Some complaints do not require IPCC intervention and whilst this is the simplest way to resolve a complaint, it is not a reason to believe that the misconduct you are complaining about is any less serious and may in fact result in the police force explaining, apologising or advising on additional training requirements.
- As you cannot appeal against the result of a Local Resolution if you disagree with the end result, **you must be asked whether you agree to local resolution before it can go ahead. You cannot be compelled to use this procedure, and should not feel under any obligation to do so. If you consider that you are being pressured into this method of redress, please do not hesitate to contact us and we will be more than happy to advise further.**

2) Local investigation

Should you refuse to have your complaint dealt with by way of local resolution then the Professional Standards Department will appoint an officer to investigate your complaint.

- You will be told how your complaint is to be investigated, what is required from you, how a decision is to be reached and the eventual action to be taken.
- The investigation may conclude that the officers subject to complaint should be dealt with by way of misconduct proceedings. You will be contacted with details of these proceedings and will be offered the chance to appear before a panel chaired by a legally-qualified professional together with the officer subject to the misconduct charge also being in attendance. If there is a finding of gross misconduct the strictest penalty that may be levied against the officer subject to complaint is that he will be dismissed from the police force.

What will be taken into account when investigating an officer?

An officer under investigation will be tested against the Standards of Professional Behaviour. These would include the following:-

- Has the officer acted honestly and with integrity and not abused their position.
- Has the officer acted with self-control and respect when dealing with the public? Has he or she acted with fairness and impartiality?
- If force has been used, was it necessary, reasonable and proportionate, taking into account all the circumstances.
- Police officers should be diligent in the exercise of their duties and should ensure they are fit to carry out their responsibilities.
- An officer should treat information with respect and should only access or disclose it in the proper course of their duties.
- Officers are to only give and carry out lawful orders and are to abide by those orders and other police regulations and policies.
- Has any officer behaved in such a way as to discredit the police service or undermine public confidence either whilst on or off duty.

Can I appeal the Professional Standards Departments findings following either a Local Investigation?

You can appeal to the IPCC in the following circumstances:

- You have a grievance with the outcome of the investigation
- You have not received enough information about the findings of the investigation and the action the police plan to take or;
- If the police have not followed the process you agreed to.

The letter telling you the outcome of your complaint should include information about how to appeal and the time limits involved. It is important that you lodge any appeal within the time limit provided otherwise your appeal may not be considered. Before you do so we strongly recommend that you contact us so that we can review the letter and advise as to points that could or should be appealed.

How often will I be updated and when am I likely to receive a response?

- You will be contacted at an early stage of your complaint by the nominated investigating officer.

- After this you will be updated at least every 28 days via the medium of your choice e.g. letter or email.
- **Please be aware that there is currently no limit on the length of time for any investigation regardless of who is nominated to deal with your complaint and how.** However we do expect that once your complaint has been acknowledged and assigned to someone an indication should be given to you as to how long the investigation is likely to take.
- If for whatever reason you are dissatisfied during the investigations please feel free to contact one of our specialist lawyers who may be able to advise further.

Complaints about how the police operate

If the complaint is not about an officer then it will be dealt with as what is known as a “direction and control” matter. Complaints within this category usually relate to police policies and procedures and do not usually lead to payment of damages. An example would be the implementation of a stop and search policy.

The complaint will be dealt with by an officer at the station involved rather than by the IPCC. The police have more flexibility as to how they deal with the complaint but the process will be similar in that an investigation will take place and you will be informed of the outcome.

What should I do when I receive the response to my complaint?

When you are in receipt of a final written response, we kindly ask that you contact us with a copy of the same for us to review so that we may assess the prospects of a successful civil claim.

Should you have any queries in relation to making a complaint, please do not hesitate to contact us where we will be more than happy to advise further.