



The Rt Hon Dame Diana Johnson MP
Chair of the Home Affairs Select Committee (HASC)
House of Commons
London SW1A 0AA

21 March 2024

Dear Diana,

IOPC review and announcement of additional reforms in the CJ Bill

I am writing to let you know that today I am publishing the report of an independent review of the Independent Office for Police Conduct (IOPC). I know that that you will have an interest in this, given that your Select Committee's inquiry report on Police Conduct and Complaints (HC140 – March 2022) covered the IOPC in some detail and made recommendations in respect of it. You will also be aware that the Crown appointment of Rachel Watson as the new Director General of the IOPC was also announced today.

In addition, I wanted to inform you that we are also issuing a Written Ministerial Statement today which announces Government amendments to the Criminal Justice Bill at Commons Report stage. These amendments concern the IOPC and give effect to measures arising from the recent review of investigatory arrangements which follow police use of force and police driving related incidents. The Statement also confirms my intention to bring forward proposals and publicly consult further on a range of issues arising from the review as soon as practicable after the Police and Crime Commissioner elections conclude on 2 May.

Public Bodies Review: “Fairfield report”

My predecessor announced on 1 March 2023 that she was launching a review of the IOPC to be led by an independent reviewer, Dr Gillian Fairfield, the current chair of the Disclosure & Barring Service.

The review formed part of the Government's new Public Bodies Review (PBR) programme (launched in April 2022), aimed at increasing the effectiveness of public bodies and their delivery for the public. Dr Fairfield's wide-ranging terms of reference were also published on gov.uk on 1 March 2023 – as you know, we specifically asked to consider HASC's concerns about the governance arrangements for the IOPC. Dr Fairfield reported to me in December 2023.

Key findings in the Fairfield report include the following that:

- it is of concern that numbers of referrals to the IOPC have risen more than threefold, whilst numbers of independent investigations have fallen;
- the IOPC is under considerable financial pressures;
- the IOPC's **governance structure is flawed** and should be reformed radically (her recommendation 43 goes further than HASC's, in favouring not just a separate Chair and Director General, but, putting the investigatory powers in the hands of the unitary board with a Crown-appointed Chair);
- interim improvements to governance, committee structures, assurance and audit functions and closer monitoring by the Home Office; and
- measures to improve quality and timeliness, including cross government work to improve times and the way that different parts of police discipline and the criminal justice system interact (recommendation 5), for example, 'handovers' with the CPS.

In total, Dr Fairfield makes 93 recommendations – 73 aimed at the IOPC to lead, and 20 mainly for central Government, and mostly the Home Office. They range from major, sweeping reforms such as the above on governance and that the IOPC be given more legislative powers to the more micro, for example, that the IOPC invite a Home Office representative to attend its Board meetings. As tasked, she makes recommendations on efficiencies, but she has included a number of recommendations and suggestions, including further powers for the IOPC to follow up its own learning recommendations, which would, if implemented, considerably increase financial burdens. She has been keen, for completeness, to include detailed descriptions and her own interpretation of the legislation and IOPC processes. It makes for a long report, but, one which clearly explores a number of important issues with thoroughness.

For full transparency, I have decided to publish it in full today, alongside a short Home Office response, in line with the Cabinet Office guidance. You will see that we are broadly accepting in principle all but one of her 20 recommendations for Government, including her governance proposals. We are not accepting recommendation 8. Dr Fairfield wants us to strengthen the organisational 'duty of candour' for policing in the Criminal Justice Bill in a way that we do not consider is needed or legislatively appropriate.

Review of investigatory arrangements following the police use of force

On 24 September 2023, the Home Office also launched a review of investigatory arrangements which follow police use of force and police driving related incidents. This followed concerns from policing that the accountability system had lost the confidence of officers, deterring some from carrying arms or taking other actions necessary to protect the public. Since the terms of reference were published on 24 October, the review has heard from a wide range of stakeholders, including frontline officers; the Independent Office for Police Conduct; relevant government departments and individuals and families directly impacted by police use of force.

Based on the evidence received by the review, in the immediate term, as announced in today's Statement, I am making **three legislative changes in the Criminal Justice Bill**, which together aim to improve the timeliness and fairness of investigations and the rights of victims – addressing concerns about delays across investigations, which cause distress to those involved and undermines public confidence. They also partially address issues raised in the Fairfield report around timeliness and accessibility of challenge mechanisms for members of the public.

The detail of the three measures are as follows:

- 1) **Raise the threshold for IOPC case referrals to the CPS to improve the timeliness of investigations.** This change will align the threshold with the test the CPS use for non-police referrals. Whilst the CPS will still retain the ultimate decision on whether to prosecute based on the full-code test, this change should improve timeliness and confidence in cases where criminality is suggested.
- 2) **Relax the restrictions preventing the CPS from bringing criminal proceedings until the IOPC's produces a final report.** This change will allow the IOPC to submit their investigation report to the CPS at an earlier stage, on completion of the investigation, where possible criminal offending has been identified. This will allow CPS to make charging decisions sooner, - reducing the length of time that an investigation takes – in the interests of all involved.
- 3) **Solidify victims' rights by placing the IOPC's existing Victims' Right to Review (VRR) policy on a statutory footing.** The VRR allows complainants and their families to challenge decisions by the IOPC not to refer an investigation report to the CPS for a charging decision. Enshrining this in legislation will enhance victims' rights and supports thorough checks and balances in the police misconduct system. This will also allow Government to hold the IOPC to account for delivery.

Next steps

The Home Office is working with stakeholders and across Government to bring forward further detailed proposals across the full range of issues raised by the reviews.

As we have set out in today's WMS, I shall set out this broader package of proposals for public consultation as soon as practicable after the Police and Crime Commissioner elections conclude on 2 May. The consultation will put forward government proposals which will closely align with the terms of reference for the review of investigatory arrangements following the police use of force. I shall also update you on proposals for the reform of the IOPC's governance in May.

I am placing a copy of this letter in the Libraries of both Houses of Parliament.



Rt Hon. James Cleverly MP