



Home Office

# Home Office Review:

## The process of police officer dismissals

September 2023



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## MINISTERIAL FOREWORD

Sir Robert Peel famously said, “*the police are the public, and the public are the police*”. But this does not mean the police should be held to the same standards as the general public. The Government, the public and the policing sector should rightly expect more.

Serving in the police is a privilege. The Office of Constable brings with it substantial powers, which is why it is so important that officers attest to serve with fairness, integrity, diligence and impartiality. These powers are also a key reason why we expect such high standards from our officers and why it is crucial that the systems in place are effective at holding officers to account.

This Government is committed to providing the police with the powers they need to protect the public, and no less committed to ensuring that when officers fall seriously short of the high standards expected of them, they are swiftly identified and robustly dealt with. Police dismissals form part of a wider disciplinary system which has been the subject of significant reform in recent years. Despite that, we have seen a number of high-profile cases which have given rise to serious concerns about the standards and culture within policing.

This has led to broader questions, such as those arising from Baroness Casey’s Review into the Metropolitan Police Service (MPS), on whether the system is appropriately balanced to ensure a fair but robust disciplinary process which takes appropriate account of public confidence. It is imperative that there are effective methods in place to remove those officers from policing who undermine the hard work of the vast majority of their colleagues, who serve with bravery and integrity, and seriously let down the communities they serve.

I am incredibly grateful to all those who provided evidence to this review. We have listened to your views, we have considered the evidence and we are now taking action. This report sets out the findings of the review and the Government’s proposals to reform the system. This action will improve, clarify and strengthen the disciplinary system, addressing concerns around policing standards and helping to re-build public confidence.

**Rt Hon Suella Braverman KC MP**  
**Home Secretary**

# EXECUTIVE SUMMARY

This review was designed to assess whether the current system is both fair and effective at removing those officers<sup>1</sup> who have no place in policing. Having considered the findings of this review, the Government is now announcing a package of substantial reforms to deliver improvements to misconduct proceedings, vetting and performance. This will ensure that those not fit to serve can be swiftly exited from policing, for the benefit of both the public and the wider workforce.

In conducting this review, we have examined evidence from policing stakeholders themselves, existing research and a significant quantity of data. But it has also been important to consider why previous changes to the system were made and whether the rationale for doing so remains valid. The review, ultimately, has sought to ensure that the system is appropriately balanced. In his 2014 review of the police disciplinary system, Major-General Chip Chapman weighed up this very point<sup>2</sup>:

*“I have been mindful of this distinction and the need to allow police forces ‘to manage their business’ as one would expect of a CEO. It is right that authority and responsibility should predominantly lie with the police leadership: what is then done with those two features is even more important. Where there are recommendations that counter this, it is because of the need for transparency, removal of opaqueness or the requirement for increased trust by the public in the internal mechanisms of the police disciplinary system. That is, helping the police to help themselves.”*

In light of the criticism aimed at policing in recent years, it has never been more important that there is independence, openness and transparency – core reasons for the Government first introducing public misconduct hearings in 2015 and then independent Legally Qualified Chairs (LQCs) the following year.

Our conclusion is that whilst these principles remain valid, it is important that we redress the balance in the system. It simply cannot be right that Chief Constables<sup>3</sup> are forced into retaining officers who commit serious acts of

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<sup>1</sup> Reference to police officers throughout this report (and unless otherwise stated) is a reference to constables or special constables serving in one of the territorial forces in England and Wales.

<sup>2</sup> [Chapman, C., \(2014\) An independent review of the police disciplinary system in England and Wales. London: Home Office](#)

<sup>3</sup> Reference to Chief Constables throughout this report is a reference to chief officers of police as defined in section 101 of the Police Act 1996, that is Chief Constables of territorial police forces maintained by local policing bodies in England and Wales and equivalent ranks in the Metropolitan Police Service and City of London Police.

misconduct, or whose circumstances are such that they cannot maintain vetting, and so we are recommending improvements to support them in upholding the very highest standards in their forces.

The review makes a number of key findings which are set out below. Its recommendations, as a package of reforms, are expected to preserve crucial independence in the system, while giving Chief Constables greater responsibility over their workforce – through the chairing of misconduct panels, the widening of cases heard at accelerated hearings, improved vetting processes and a streamlined performance system. As a package, this is intended to deliver improvements across all three key areas: misconduct, vetting and performance, to help deliver those crucial improvements to public trust and confidence. A list of all recommendations can also be found at **Annex A**.

### **Independent lawyers and Chief Constables both have a role to play in the system**

Whilst this review recommends retaining legally-qualified panel members, we consider that the current system is unhelpfully imbalanced, leaving Chief Constables with insufficient responsibility over proceedings relating to their own workforce. That is why we are recommending that Chief Constables (or other senior officers<sup>4</sup>) should now chair misconduct hearings, but that they continue to be supported on that panel by a legally-qualified panel member and independent panel member.

Chief Constables will also have an increased role in the system, including hearing a wider set of cases under accelerated hearings, with a new power to delegate relevant functions to other senior officers, in order to speed up processes.

### **Gross misconduct should in most cases mean dismissal**

Gross misconduct is, by its very definition<sup>5</sup>, behaviour which is so serious that it would justify dismissal. Cases of proven gross misconduct can, and often do, have a substantial impact on public confidence in policing. Yet, as set out in **chapter 3** of this report, there have been a number of cases where officers found to have committed gross misconduct have received lesser sanctions and were not dismissed, with those chairing misconduct proceedings required to consider the least severe sanction first. Whilst there will be exceptional circumstances where it will be appropriate to issue a sanction other than dismissal for gross misconduct, this should indeed be the exception, rather than a frequent or regular occurrence. That is why we are recommending a

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<sup>4</sup> Reference to senior officers throughout this report means an officer above the rank of Chief Superintendent.

<sup>5</sup> Regulation 2(1) - [The Police \(Conduct\) Regulations 2020 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2020/1251/2020-01-01/2020-01-01/1)

presumption for dismissal, for any officer found to have committed gross misconduct.

This will be supported by a list of criminal offences, conviction of which will automatically amount to gross misconduct, removing the risk of officers convicted of serious criminal offences remaining in policing.

### **Officers must maintain vetting – or risk removal from policing**

Chief Constables should not be required to retain officers whose circumstances are such that they are unable to maintain a basic level of vetting. Doing so represents an unacceptable risk to policing and can significantly impact public confidence. The holding of vetting should be made a statutory or regulatory requirement for constables, meaning that failure to maintain basic vetting renders an officer liable to removal from the force. Further consultation with the sector will be required to develop consensus on the most appropriate mechanisms.

### **The system for dealing with performance is underused and in need of reform**

The current performance system is unwieldy and complex. The process will be streamlined to ensure that under-performing officers can be efficiently dismissed from the service, removing unnecessary bureaucracy and speeding up these decisions. Alongside this, the guidance underpinning the process for discharging officers who are on probation will be improved so that Chief Constables, at their discretion, are confident under the existing system to swiftly remove probationers who should not go on to continued service with the police.

### **The disciplinary system should be fair, transparent and effective for all officers and staff, regardless of their background**

Trust and confidence in policing require a transparent and effective disciplinary system. It must reassure the public and those within policing that those officers who fall seriously short of the required standards are dealt with robustly. It must also treat all officers and staff equally and fairly, regardless of their background.

Though the data was limited beyond race, age and sex, the review found evidence of disparities in the dismissals system. It is therefore right that the policing sector seeks to explain why such disparities exist and considers what measures need to be taken to tackle them. To do this effectively, policing must take an evidenced-based approach and that is why this report makes recommendations to work together in gathering better and more transparent data.

One force told us that *“dismissing those who should not be in policing at all is at the heart of this crisis of confidence”*. Whilst we agree it is vital those officers who fall seriously short of the expected standards are dismissed, the focus on dismissals and the misconduct system should not be at the expense of further action required by forces to improve public confidence in policing. Recent high-profile cases have not only damaged public confidence in policing, but have also exposed failures to treat allegations against officers seriously and take robust action which could have prevented further misconduct or criminality. We expect this review’s recommendations to help to strengthen public confidence, but action by the policing sector to address these challenges must go much wider. Forces must continue to focus on improving police culture, preventing misconduct in the first place, supporting those challenging or reporting wrongdoing and ultimately thoroughly investigating those allegations swiftly and to a high standard.



# INTRODUCTION

## Legislative background

In December 2014, Major-General Chip Chapman published his review<sup>6</sup> into the police disciplinary system, having been tasked by the then Home Secretary, Rt Hon Theresa May MP, to identify proposals for a reformed disciplinary system which was “*clear, public-focussed, transparent and more independent*”.

What ultimately followed was several years of legislative reform to strengthen the complaints and discipline systems, which included public misconduct hearings in 2015 and the introduction of LQCs in 2016, replacing senior officers as the chair of misconduct hearings. Both of these changes were made under the Police (Conduct) (Amendment) Regulations 2015<sup>7</sup>.

Then, on receiving Royal Assent on 31 January 2017, the Policing and Crime Act 2017 brought further substantial changes to the system, including reform of the then Independent Police Complaints Commission (IPCC) to what is now the Independent Office for Police Conduct (IOPC), the introduction of the police Barred and Advisory Lists to prevent those dismissed from re-joining policing and provisions to allow former officers to face misconduct proceedings, despite their retirement or resignation from their force.

More recently, the Government introduced a series of secondary legislation in February 2020. These measures, broadly welcomed by the sector, gave additional powers to the IOPC, provided LQCs with a greater role to case manage hearings, implemented measures to improve timeliness, redefined the threshold for misconduct and brought into effect the Reflective Practice Review Process (RPRP) – a process to move away from a blanket approach for all breaches of the Standards of Professional Behaviour<sup>8</sup>, no matter how low-level they are, to one which focusses on a culture of learning and reflection for minor breaches and disciplinary action for serious breaches.

There are 2 forms of behaviour which can currently result in an officer being dismissed from the police – **gross misconduct**<sup>9</sup>, which is handled under the

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<sup>6</sup> [Chapman, C.. \(2014\) An independent review of the police disciplinary system in England and Wales. London: Home Office](#)

<sup>7</sup> [The Police \(Conduct\) \(Amendment\) Regulations 2015 \(legislation.gov.uk\)](#)

<sup>8</sup> Schedule 2 - [The Police \(Conduct\) Regulations 2020 \(legislation.gov.uk\)](#)

<sup>9</sup> Regulation 2(1) - [The Police \(Conduct\) Regulations 2020 \(legislation.gov.uk\)](#). In the case of misconduct which does not amount to gross misconduct, dismissal can also be imposed as a sanction, but only where the officer concerned had a final written warning at the time of the severity assessment or where the officer's conduct arose from more than one incident and those incidents are not closely or factually connected (as set out in regulation 42(3) of the Police (Conduct) Regulations 2020).

Police (Conduct) Regulations 2020, or **gross incompetence** (or **unsatisfactory performance / attendance**)<sup>10</sup>, which is handled under the Police (Performance) Regulations 2020.

Officers with a case to answer for gross misconduct can be referred either to a misconduct hearing or accelerated hearing (previously known as a special case hearing). In January 2016, LQCs were introduced to chair misconduct hearings, supported by an officer of at least Superintendent rank and an independent panel member (IPM)<sup>11</sup>. However, where there is sufficient evidence (on the balance of probabilities) of gross misconduct *and* it is in the public interest for the individual to cease to be an officer without delay, officers are instead referred to an accelerated hearing. This is a fast-track process chaired by a Chief Constable<sup>12</sup> (or by a panel composed in accordance with regulation 55 of the Police (Conduct) Regulations 2020 where the subject of the disciplinary proceedings is a senior officer).

Officers whose performance is considered unsatisfactory can be referred into the three-stage performance procedures. If improvements are not made, officers can ultimately move to a third stage meeting, at which they could be dismissed. They can also be referred in directly to this stage for instances of gross incompetence. These meetings are chaired by a senior officer or a senior Human Resources (HR) professional.

Fuller information on all of the processes and procedures on police performance can be found in the Home Office's Statutory Guidance on Professional Standards, Performance and Integrity in Policing<sup>13</sup>.

The below chart sets out the processes involved in those cases and the available outcomes. There is a separate internal process available to Chief Constables, enabling them to discharge probationary officers under certain circumstances – this is covered within **chapter 5** of this report.

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<sup>10</sup> Regulation 4(1) - The Police (Performance) Regulations 2020 (legislation.gov.uk). See also regulation 46 of those regulations.

<sup>11</sup> The panel composition differs for senior officers.

<sup>12</sup> References throughout this report to a Chief Constable chairing an accelerated hearing include references to an Assistant Commissioner in the case of the MPS.

<sup>13</sup> [Policing professional standards, performance and integrity - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/612212/police_professional_standards_performance_and_integrity.pdf)

### Gross Misconduct

(or misconduct where a final written warning was in place at the time of the initial severity assessment, or the officer had been reduced in rank within 2 years of that assessment)

### Gross Incompetence

**Unsatisfactory Performance / Attendance**

### Misconduct Hearing

### Accelerated Hearing

### Performance Meeting (third stage)

LQC-chaired

Chief Constable-chaired

Senior officer or HR-chaired

- **Written warning** (misconduct only)
- **Final written warning**
- **Reduction in rank**
- **Dismissal**

- **Final written warning**
- **Reduction in rank**
- **Dismissal**

- **Redeployment**
- **Final written improvement notice** (or extension)
- **Reduction in rank**
- **Dismissal**

### Initiation of a review

In October 2022, the then Minister of State for Crime, Policing and Fire, Rt Hon Jeremy Quin MP, announced a review into the process of police officer dismissals, as part of a Written Ministerial Statement and following publication of Baroness Casey's interim findings on misconduct in the MPS<sup>14</sup>. This Ministerial Statement identified that there had been several high-profile failings by the police in recent years, which had "*substantially diminished public trust*" in the MPS.

On 17 January 2023, the Home Secretary, Rt Hon Suella Braverman KC MP, launched this review as part of a statement to the House of Commons, following the conviction of former MPS officer, David Carrick, for a number of rapes and serious sexual offences<sup>15</sup>. In announcing this review, the Home Secretary stated that the misconduct and dismissals process "*takes too long, it does not command the confidence of police officers and it is procedurally burdened*".

The Home Secretary closed her statement by saying that the Government will not shy away from challenging the police to meet the expected standards,

<sup>14</sup> [Baroness Casey's report on misconduct | Metropolitan Police](#)

<sup>15</sup> Hansard, Volume 726: Police Conduct and David Carrick, 17 January 2023

stating that “change must happen and, as Home Secretary, I will do everything in my power to ensure that it does”.

### Importance of dismissal

Though the majority of the public has confidence in the police, it has been impacted by recent events. The Crime Survey for England & Wales (CSEW)<sup>16</sup> found respondents reported their ‘overall confidence in the local police’ as 63% in the year ending 31 March 2006 rising to 72% in the year ending 31 March 2011. In the year ending 31 March 2012 the figure was 75% rising to 78% in the year ending 31 March 2016, before falling to 68% in the year ending 31 March 2023.

Several surveys have explored the potential reasons for declining public perceptions of the police. The IOPC conducted a survey in 2022<sup>17</sup>, finding that of those who reported feeling negative towards the police, a quarter stated that the reason they felt negatively was due to racism, sexism and homophobia. While 13% reported that they felt negatively due to police misconduct, 9% due to corruption within the police and 8% due to the police abusing their position of power.

A survey was also conducted as part of Baroness Casey’s review in 2023<sup>18</sup>, asking Londoners why they think that the reputation of the MPS has worsened. Respondents were most likely to cite poor behaviours and actions of individual officers in the MPS (77%) and high-profile incidents and scandals (68%).

Research has also found perceptions of corruption<sup>19</sup> and misconduct<sup>20</sup> have the potential to profoundly damage public perceptions of police legitimacy and fairness. Public confidence and trust in the police and criminal justice system more generally is impacted by the ability for guilty officers to be punished for their actions<sup>21</sup>. Systems that enable the poor behaviour of officers to be challenged can help maintain the public’s trust and confidence in the police<sup>22</sup>, highlighting the importance for forces to have the ability to dismiss officers who engage in misconduct.

In addition, research has highlighted the importance of dismissal to avoid

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<sup>16</sup> [Office for National Statistics \(2020\) Crime in England and Wales: year ending March 2020 – Table S4](#)

<sup>17</sup> [IOPC \(2022\) IOPC Public Perceptions Tracker Summary Report: England and Wales](#)

<sup>18</sup> [Baroness Casey Review Final Report \(2023\)](#)

<sup>19</sup> Alalehto, T. and Larsson, D., (2016) Measuring trust in the police by contextual and individual factors. *International Journal of Law, crime and justice*, 46, pp.31-42

<sup>20</sup> [Newburn, T., \(2015\) Literature review: police integrity and corruption. London: Her Majesty’s Inspectorate of Constabulary](#)

<sup>21</sup> Balcioglu, E. and Erkan, P.A.L.A., (2015) Police accountability system in England and Wales. *Sosyoloji Araştırmaları Dergisi*, 18(1), pp.30-56.

<sup>22</sup> [House of Commons \(2022\) Police complaints and discipline. \(HC 2056, 2020\) London: House of Commons.](#)

further misconduct. Several studies have demonstrated that those who engage in misconduct and unethical behaviour increase the risk of spreading this behaviour to other officers<sup>23</sup>. A study of MPS data (35,924 officers and staff from 2011 to 2014) used line management history to infer officer peer groups and found that an increase of 10% in prior peer misconduct increased an officer's later misconduct by 8%<sup>24</sup>. These results were found to be consistent when an officer relocated to a new group.

This is particularly concerning considering the findings from the interim report by Baroness Casey in 2022<sup>25</sup> which found those who engage in misconduct are more likely to have been involved in multiple incidents. This analysis showed that, within the MPS between April 2013 and March 2022, 20% (1,809) of the 8,917 individuals in the misconduct system had been involved in more than one case of misconduct. 1,263 were involved in 2 separate misconduct cases and over 500 were involved in 3 to 5 cases of misconduct. Only 13 of the 1,809 officers and staff with more than one misconduct case against them had been dismissed.

It is evident that high-profile cases of serious police misconduct can impact public trust and confidence. This risks being exacerbated where those found guilty of gross misconduct are not subsequently dismissed from policing. It has never been more crucial for Chief Constables to drive improvements in standards, but some Chief Constables have questioned how they can be held to account on their performance without having full control over who should or shouldn't be dismissed in their force. This impacts on Chief Constables' confidence in their ability to protect the public from some officers who haven't been dismissed, yet the circumstances require them to remain on certain restrictions. This was demonstrated in the recent successful challenge of a misconduct panel decision by the Chief Constable of the British Transport Police<sup>26</sup>.

The ability for forces to dismiss officers is also important in terms of sending a message of the expected standards required to other officers<sup>27</sup> and can help deter other officers from committing offences<sup>28</sup>. However, it is crucial to highlight that an effective dismissals process is only one part of the solution in dealing with misconduct and setting standards in policing. Broader cultural change within forces is imperative to ensure that adverse attitudes and

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<sup>23</sup>Mitchell, O., (2019) Peers and police peer misconduct. *Nature Human Behaviour*, 3(8), pp.774-775.

<sup>24</sup>Quispe-Torreblanca, E.G., and Stewart, N., (2019) Causal peer effects in police misconduct. *Nature human behaviour*, 3(8), pp.797-807.

<sup>25</sup> [Baroness Casey review \(2022\) Analytical report](#)

<sup>26</sup> Chief Constable of British Transport Police v Police Misconduct Panel [2023] EWHC 589

<sup>27</sup> [Newburn, T., \(2015\) Literature review: police integrity and corruption. London: Her Majesty's Inspectorate of Constabulary.](#)

<sup>28</sup> Balcioglu, E. and Erkan, P.A.L.A., (2015) Police accountability system in England and Wales. *Sosyoloji Araştırmaları Dergisi*, 18(1), pp.30-56.

behaviours are not left unidentified or unchecked, and subsequently permitted to develop into serious cases of misconduct. It is for Chief Constables to drive a decisive shift within their forces against toxic cultures. Part 2 of the Angiolini Inquiry - for which Government published terms of reference in May 2023<sup>29</sup> - will examine culture among other national policing issues and where relevant will make further recommendations for improvement.

## Terms of Reference

The following Terms of Reference were published on 17 January 2023<sup>30</sup>, following the Home Secretary's statement to the House of Commons:

1. Understand the consistency of decision-making at both hearings and accelerated hearings – particularly in cases of discrimination, sexual misconduct and violence against women and girls (VAWG).
2. Assess whether there is disproportionality in dismissals and, if so, examine the potential causes.
3. Establish any trends in the use of sanctions at both hearings and accelerated hearings – in particular, the levels of dismissals.
4. To review the existing model and composition of misconduct panels, including assessing the impact of the role of legally qualified chairs (LQCs), review whether chiefs should have more authority in the process (including whether the chief should take the decision with protection for the officer provided by way of a right of appeal to the Police Appeals Tribunal and consideration of when barring occurs) and review the legal/financial protections in place for panel members.
5. Ensure that forces are able to effectively use Regulation 13 of the Police Regulations 2003 to dispense with the services of probationary officers who will not become well-conducted police officers.
6. Review the available appeal mechanisms for both officers and Chief Constables, where they wish to challenge disciplinary outcomes or sanctions, ensuring that options are timely, fair and represent value for public money.
7. Consider the merits of a presumption for disciplinary action against officers found to have committed a criminal offence whilst serving in the police.
8. Review whether the current three-stage performance system is effective at being able to reasonably dismiss officers who demonstrate a serious inability or failure to perform the duties or

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<sup>29</sup> [Angiolini Inquiry part 2: terms of reference - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/angiolini-inquiry-part-2-terms-of-reference)

<sup>30</sup> [Police officer dismissals review: terms of reference - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/police-officer-dismissals-review-terms-of-reference)

their rank or role, including where they have failed to maintain their vetting status.

## Methodology

In conducting this review, it has been crucial to consider a range of evidence to inform recommendations. It has been conducted utilising 3 methods of collecting evidence.

- **Stakeholder evidence**

The review has engaged across the policing sector and considered individual evidence carefully. On launching the review, the Home Office wrote to a number of stakeholders, asking for written submissions of evidence on the specific Terms of Reference.

Aside from national policing stakeholders, the Home Office provided a number of other bodies with the opportunity to contribute evidence to this review, including:

- Police staff networks
- Legally Qualified Chairs and Police Appeals Tribunal Chairs
- Non-territorial law enforcement bodies
- Academics
- Barristers and solicitors

The comments received have been catalogued and carefully considered by the review and a number have been specifically referenced throughout this report.

- **Research and literature**

A review of relevant literature and research evidence was also conducted to support this review. While this was not a systematic review, the search for evidence was conducted using a rigid set of criteria.

Articles from academic journals, as well as reports and publications from relevant organisations were reviewed. The geographical focus of the literature was England and Wales due to the specific nature of the subject-matter, although some international comparison studies were also considered. The search was restricted to evidence published between 2013 and 2023 to ensure that anything published in the lead up to changes in policy and legislation that took place since 2015 was not excluded.

The search for literature identified 76 papers that were relevant to the topic and fit the defined criteria. Each was then reviewed in terms of their methodological robustness and relevance. The findings of these robust and relevant pieces of evidence have been included under the relevant themes throughout this report.

- **Data**

As well as considering existing published evidence, the Home Office has collected a number of data sets from the 43 territorial police forces in England and Wales, allowing for new national-level analysis. These police data include:

- Information on formal misconduct proceedings under the Police (Conduct) Regulations, and appeals, recorded on Centurion – the complaints and conduct case management system used by Professional Standards Departments within all 43 police forces;
- Information on officers dismissed through the use of Regulation 13 of the Police Regulations 2003 as recorded by force HR departments; and
- Information on officers dismissed through the Police (Performance) Regulations as recorded by force HR departments.

Further information on the collection, analysis and limitations of this data can be found in **Annex B** to this report. [Supplementary data tables](#) summarising the analysis have also been published alongside this report.



# TERM 1: Consistency of decision-making

Understand the consistency of decision-making at both hearings and accelerated hearings – particularly in cases of discrimination, sexual misconduct and violence against women and girls (VAWG).

## 1.1 Introduction

Cases of discrimination and VAWG-related (including sexual) misconduct have gained greater public attention over recent years due in part to high-profile cases, such as former MPS officer and serial sex offender David Carrick<sup>31</sup>, and instances of racist, misogynistic and homophobic behaviours brought to light in the IOPC's investigation of behaviour at Charing Cross police station<sup>32</sup>.

In August 2022, the College of Policing published its updated Guidance on Outcomes in Police Misconduct Proceedings<sup>33</sup>. The guidance notes that “a factor of the greatest importance is the impact of misconduct on the standing and reputation of the [policing] profession as a whole”, specifying that “violence against women and girls perpetrated by a police officer, whether on-duty or off-duty, will always harm public confidence in policing” and will “have a high degree of culpability, with the likely outcome being severe”. On cases of discrimination, the guidance outlines that “discrimination towards persons on the basis of any protected characteristic is never acceptable and always serious.”

The review heard from several respondents who suggested that the College's guidance is not always consistently applied, with one suggesting that, following some judicial review proceedings, courts have found failures by misconduct panels “to adopt the structured approach required by the College's guidance in relation to assessing seriousness and to consider the most appropriate sanction for the officer concerned”.

One organisation also observed that, at times, there seems to be “inconsistency in outcomes for officers and for police staff for the same or similar types of misconduct [...] and in terms of how seriously those conducting proceedings treat some types of misconduct compared with others (for example, discriminatory behaviour that is misogynistic in nature appearing to have been treated less seriously than racial discrimination)”.

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<sup>31</sup> Carrick was sentenced to life imprisonment in February 2023 after pleading guilty to 49 charges including rape, sexual assault, coercive control, and false imprisonment.

<sup>32</sup> [Operation Hotton learning report, January 2022 | Independent Office for Police Conduct \(IOPC\)](#)

<sup>33</sup> [Guidance on outcomes in police misconduct proceedings 2022 \(college.policing.uk\)](#)

However, it was also noted that some elements of the College's guidance, particularly in relation to VAWG, were updated relatively recently and therefore its impact on the system may not yet be fully seen.

Research also found that, with consideration to sexual misconduct, similar behaviours and types of incidents may be dealt with inconsistently. Sweeting, Arabaci-Hills and Cole (2020) conducted a study using 155 cases of sexual misconduct within 30 police forces<sup>34</sup>. Inconsistencies were found in the outcome decisions made at hearings held in response to officers who engaged in sexual misconduct. Dismissal rates were found to vary across England for the same type of sexual misconduct. For example, considering officers involved in sexual relationships with vulnerable victims, 94.4% of cases (18 cases) resulted in dismissal in the south, but only 66.7% (21 cases) in the north. In cases of attempting to establish relationships with members of the public, 70% of officers (10 cases) were dismissed in the south compared with only 40% (10 cases) in the north. There were also inconsistencies in the level of sanction for sexual misconduct, with the lowest recorded being a written warning.

A study conducted by Brown et al. (2019) also found that both formal and informal methods of handling concerns may be applied inconsistently. In a survey of 169 senior women in policing, respondents reported that unwanted comments and jokes made, where they were the target, bystander or had been told about by others, were dealt with informally for 21% of respondents and formally for 17% of respondents<sup>35</sup>. Unwanted physical contact was reported as being dealt with informally for 11% of respondents and formally for 15% of respondents, and unwanted sexual propositioning was dealt with informally for 8% of respondents and formally for 11% of respondents. These findings highlight that rather than one approach being applied consistently in response to the same types of behaviour, both formal and informal handling are used with similar frequency. This suggests that similar incidents are often dealt with in different ways when concerns are raised. Another study, conducted by Sweeting and Cole (2022), involved focus groups of 25 police trainers. It was found that incidents of sexual misconduct that took place during training were generally dealt with informally, while serious incidents, involving assault, were generally dealt with outside of the training unit<sup>36</sup>.

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<sup>34</sup> Sweeting, F., Arabaci-Hills, P. and Cole, T., (2020) Outcomes of police sexual misconduct in the UK. *Policing: A Journal of Policy and Practice*, 15(2), pp.1339-1351.

<sup>35</sup> Brown, J., Fleming, J., Silvestri, M., Linton, K. and Gouseti, I., (2019) Implications of police occupational culture in discriminatory experiences of senior women in police forces in England and Wales. *Policing and society*, 29(2), pp.121-136.

<sup>36</sup> Sweeting, F. and Cole, T., (2022) Sexual misconduct in police recruits as identified by police trainers. *The Police Journal*, p.0032258X211048416.

HMICFRS' 2022 inspection on vetting, misconduct and misogyny<sup>37</sup> identified 'forces' understanding of the scale of misogynistic and improper behaviour towards female officers and staff' as an area for improvement. The report suggested many interviewees for the inspection felt that informal challenge of prejudicial and improper behaviour (rather than reporting to a supervisor) was an appropriate way of dealing with it. However, the report also noted that some officers and staff who had experienced such behaviour reported that it was often witnessed by colleagues who rarely challenged the people responsible.

Inconsistencies in decision-making around disciplinary action may result from different perspectives of what constitutes 'misconduct' and where the threshold for this is. A study conducted by the College of Policing (Hales et al, 2015) involved interviews with stakeholders and experienced investigators. It was found that interviewees believed there was little clarity about what constituted meeting the misconduct threshold, which was seen to be a very subjective decision<sup>38</sup>. In contrast, the threshold between 'misconduct' and 'gross misconduct' was generally thought to be clear.

## 1.2 Data

### NPCC VAWG performance and insights report

In March 2023, the National Police Chiefs' Council (NPCC) published data on police-perpetrated VAWG complaints and conduct cases recorded between October 2021 to March 2022<sup>39</sup>. At the time of data collection, 167 conduct cases (related to 195 allegations) had been finalised. Of these allegations, 21 were referred to proceedings, of which 13 resulted in dismissal of the complaint subject (or they would have been dismissed if they were still in the force), 4 resulted in a final written warning, 1 resulted in a written warning, 1 was not proven and 1 resulted in no further action<sup>40</sup>.

### Police perpetrated domestic abuse: report on the Centre for Women's Justice super-complaint

In their joint report on a police-perpetrated domestic abuse (PPDA) super-complaint<sup>41</sup>, the College of Policing, HMICFRS and the IOPC found that forces often failed to accurately treat PPDA allegations as police complaints

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<sup>37</sup> [An inspection of vetting, misconduct, and misogyny in the police service - His Majesty's Inspectorate of Constabulary and Fire & Rescue Services \(justiceinspectorates.gov.uk\)](https://www.justiceinspectorates.gov.uk/hmicfrs/reports-and-publications/2022/inspection-on-vetting-misconduct-and-misogyny-in-the-police-service/)

<sup>38</sup> Hales, G., May, T., Belur, J. and Hough, M., (2015) *Chief officer misconduct in policing: An exploratory study*. London: College of Policing

<sup>39</sup> [First violence against women and girls benchmark published \(npcc.police.uk\)](https://www.npcc.police.uk/first-violence-against-women-and-girls-benchmark-published/)

<sup>40</sup> [Tackling VAWG Statistical Bulletin.pdf](https://www.npcc.police.uk/tackling-vawg-statistical-bulletin/)

<sup>41</sup> [Police perpetrated domestic abuse: Report on the Centre for Women's Justice super complaint - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/114444/Police-perpetrated-domestic-abuse-Report-on-the-Centre-for-Women-s-Justice-super-complaint.pdf)

and conduct matters, which has led to inconsistent data. The report used a dataset of 122 cases from 2018. In total, 13 of these resulted in a case to answer for misconduct or gross misconduct - 7 of which led to the individual being referred to some form of disciplinary proceeding, 6 led to dismissal (or would have done if the individual had not already left the force) and 1 led to a final written warning.

### Barred List data

Data from the Barred List<sup>42</sup> statistics, published by the College of Policing, shows that between April 2021 to March 2022, categories associated with sexual misconduct were collectively the highest for police officer dismissals. Of the 397 reasons recorded for police officer dismissal, there were 31 instances recorded of abuse of position for sexual purpose, 33 instances recorded of sexual offences or misconduct, and 1 instance recorded of rape.

### Home Office analysis of police misconduct data

Data collected by the Home Office as a part of this review includes information on the volume and outcome of misconduct hearings (including accelerated hearings) heard under the Police (Conduct) Regulations 2020<sup>43</sup>, by IOPC allegation type. When a complaint, conduct matter or recordable conduct matter occurs, IOPC allegation categories are used to capture the nature of the conduct which occurred. [Appendix A of the IOPC's guidance](#) on capturing data about police complaints contains a full description of the categories and sub-categories that make up the framework.

An officer may face a case to answer for multiple allegations, across multiple allegation categories at a single misconduct proceeding. Analysis of this data shows that between 1 February 2020 and 31 January 2023, 79 officers were referred to a misconduct hearing as a result of at least one allegation of 'sexual misconduct'. Of these officers, 92% received an overall finding of gross misconduct, amongst the highest rates when looking at the 11 IOPC allegation types and above the rate seen amongst all officers (89%).

Of those officers facing hearings involving at least one allegation of 'sexual misconduct', where gross misconduct has been found, 89% were dismissed, compared with 87% seen across all hearings and accelerated hearings during this period. Figure 1 shows the proportion of officers found to have committed gross misconduct who were subsequently dismissed, by IOPC allegation type.

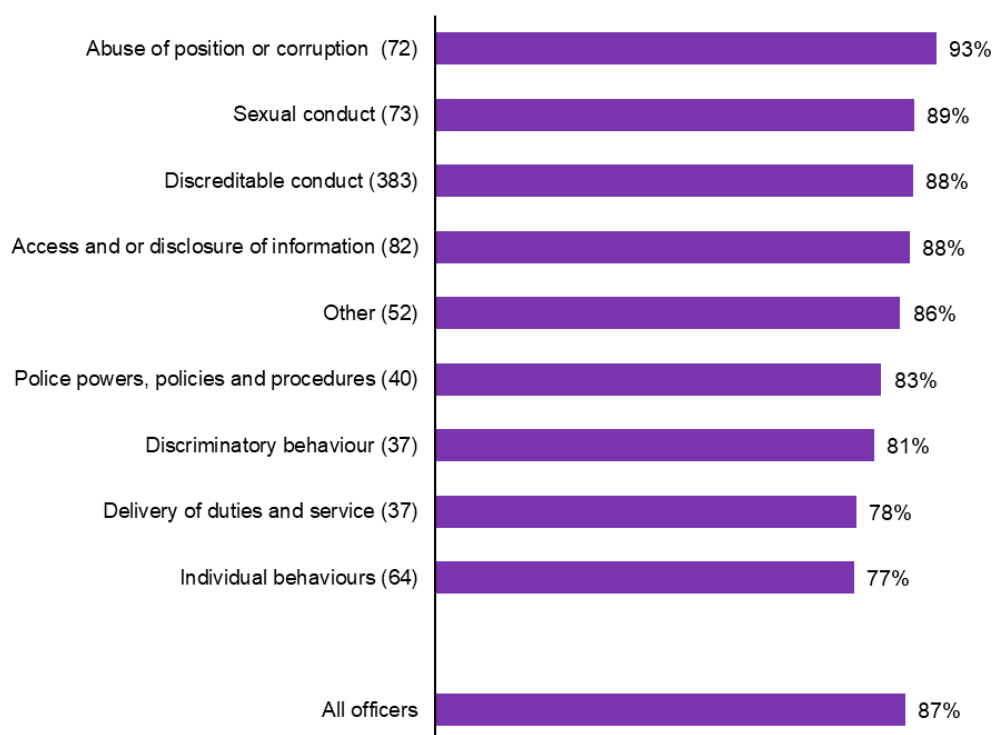
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<sup>42</sup> [Police dismissals \(Home Office forces\) 2021 to 2022 | College of Policing](#)

<sup>43</sup> [The Police \(Conduct\) Regulations 2020 \(legislation.gov.uk\)](#)

Hearings involving at least one allegation of ‘abuse of position or corruption’ saw the highest rate of dismissal - 93% of officers found to have committed gross misconduct were dismissed. ‘Abuse of position or corruption’ primarily includes cases of abuse of position for sexual purpose and for the purpose of pursuing an inappropriate emotional relationship.

**Figure 1: Proportion of officers found to have committed gross misconduct who were subsequently dismissed, by IOPC allegation category**



**Notes:**

1. Includes cases handled under the Police (Conduct) regulations 2020 only.
2. Includes cases finalised between 1 February 2020 and 31 January 2023.
3. The number in brackets represent the number of officers found to have committed gross misconduct.
4. Excludes cases with an allegation of ‘handling of, or damage to, property or premise’ and ‘use of police vehicles’ due to low numbers.

A lower proportion of officers (when compared with cases involving ‘abuse of position’ or ‘sexual conduct’) facing at least one allegation of ‘discriminatory behaviour’ were found to have committed gross misconduct (84%) when compared with all officers referred to hearings (89%), though the overall number facing hearings for ‘discriminatory behaviour’ was relatively low (44). Of the 37 officers who attended a hearing for at least one allegation of ‘discriminatory behaviour’ and were found to have committed gross misconduct, 81% were subsequently dismissed (compared with 87% across all officers). 28 out of the 37 officers saw at least one allegation of racial

discrimination, with the remaining cases including allegations of discrimination based on sex or sexual orientation.

Officers attending a hearing for at least one allegation of 'individual behaviours', which includes language, actions and behaviour that are not discriminatory saw the lowest dismissal rate when gross misconduct had been found (77%).

### 1.3 Limitations

Where an officer has been referred to a hearing as a result of multiple allegations, spanning multiple allegation types, it is not possible to determine from the data which allegations individually constituted gross misconduct or resulted in the dismissal of the officer. For the purpose of this analysis, where a hearing covers multiple allegations, the most severe misconduct finding and outcome are used.

Some allegation types have a small number of cases recorded that were referred to hearings. Differences between groups therefore may be exaggerated by small numbers. For further information see **Annex B** of this report.

The category 'discreditable conduct', which is the largest category by some margin, is a fairly broad category including behaviours that occur while not in the execution of a police officer's duty and may therefore cover a variety of behaviours. The NPCC's VAWG performance and insights report observes that it "*is highly likely that the use of discreditable conduct as a category to capture inappropriate sexual behaviour or domestic abuse means that the proportion of allegations relating to these threats are higher than identified.*"<sup>44</sup>

A "national factors" framework has been introduced to capture the situational context of an allegation to provide further information about the nature of complaints, including domestic or gender abuse and VAWG. These factors have been used in the NPCC VAWG analysis, however as new fields in the data, are currently not complete for all allegations. Research on the outcome of cases by national factor are therefore based on relatively small samples. We anticipate that reporting and data quality will improve over time, and understand that there is ongoing work by the NPCC to review and improve data being collected.

HMICFRS' November 2022 inspection report on vetting, misconduct and

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<sup>44</sup> [Tackling VAWG Policing insights report - Policing insights report \(2\).pdf](#)

misogyny<sup>45</sup> recommended that the NPCC and IOPC should agree a definition of ‘prejudicial and improper behaviour’ and devise a means of flagging it on databases used to record complaints and misconduct. For its inspection, HMICFRS defined ‘prejudicial and improper behaviour’ as *‘any attitude and/or behaviour demonstrated by a police officer or police staff that could be reasonably considered to reveal misogyny, sexism, antipathy towards women or be an indication of, or precursor to, abuse of position for a sexual purpose’*. We understand this work is progressing and recognise that it should further improve the depth of data available.

## 1.4 Recommendations

It is clear that, in more recent years, there has been greater recognition in policing that misconduct cases involving sexual misconduct, VAWG and discrimination should be taken extremely seriously, and indeed, data analysed for our review shows that dismissal rates for sexual misconduct are high. There have been concerted efforts to reinforce this message to forces, including through the College of Policing’s aforementioned Guidance on Outcomes in Police Misconduct Proceedings, as well as the NPCC’s work to respond to police-perpetrated abuse under its VAWG national framework for delivery<sup>46</sup>. We expect that given the relative recency of some of this work, case handling and outcomes will further improve as approaches are embedded.

The data considered for our review does suggest some differences between outcomes for different types of misconduct. Lower proportions of officers facing allegations of discriminatory behaviour (compared to those facing sexual misconduct, for example) were found to have committed gross misconduct and dismissed. Whilst such outcomes might be explained by the relative severity of offences, it is difficult to draw firm conclusions about the consistency of decision-making (both for finding gross misconduct and for sanctioning dismissal) based on the research and data we have considered overall in our review. Again, the use of the College’s guidance is important for ensuring greater consistency. We also note the work of the Mayor’s Office for Crime and Policing (MOPAC) and other PCC offices, who are providing holistic training for those who sit on panels. It is crucial that all panel members are provided thorough training, including on issues which significantly impact on public confidence in the police, such as discrimination and VAWG. This will remain important for the reformed panels proposed in **chapter 4**.

Where there is clearer evidence is around concerns with regards to the

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<sup>45</sup> [An inspection of vetting, misconduct, and misogyny in the police service - His Majesty’s Inspectorate of Constabulary and Fire & Rescue Services \(justiceinspectorates.gov.uk\)](https://www.justiceinspectorates.gov.uk/hmicfrs/reports-and-publications/2018-2019/2018-2019-01-02-an-inspection-of-vetting-misconduct-and-misogyny-in-the-police-service/)

<sup>46</sup> [Policing violence against women and girls - National framework for delivery: Year 1 \(npcc.police.uk\)](https://www.npcc.police.uk/2018-2019-01-02-policing-violence-against-women-and-girls-national-framework-for-delivery-year-1/)

standards and consistency of case-handling. Baroness Casey's interim report on misconduct in the MPS, published in October 2022<sup>47</sup>, highlighted a broad range of issues with the MPS' Directorate of Professional Standards and Professional Standards Units. Similarly, in its November 2022 inspection report<sup>48</sup>, HMICFRS said that in the past decade:

*“a series of reports should have alerted forces that some of them were not properly equipped to prevent and investigate misogynistic and predatory behaviour. We could draw similar conclusions about racism, dishonesty, and other forms of corruption.”*

The report also raised concerns about the standards and consistency of decision-making, commenting that *“initial assessments by some appropriate authorities reveal leniency, apathy and too much tolerance of prejudicial and improper behaviour”*. The report noted several cases which were assessed by the Appropriate Authority (AA)<sup>49</sup> at the outset as not being misconduct, or as lower-level misconduct, which HMICFRS considered to be gross misconduct. None of the forces included in the inspection used any kind of quality assurance process for AA decisions.

For those officers who work in other specialist or high-harm areas of policing, there are rightly accreditation schemes in place, including the Specialist Child Abuse Investigators Development Programme (SCAIDP), Specialist Sexual Assault Investigators Development Programme (SSAIDP) and the National Police Firearms Training Curriculum (NPFTC). These schemes not only provide officers with the specialist knowledge they need to perform their roles, but they professionalise those areas of policing and provide a level of national consistency in decision-making.

The College of Policing has developed, and delivered, a high-quality training course for both professional standards investigators and AAs, but it is not a requirement of the role and there is no in-force assessment to ensure that officers have developed the appropriate knowledge, skills and experience required. It is important for the confidence of the public and the workforce, that investment is made in PSD investigators and decision-makers and we consider accreditation for those working in professional standards to be an important step towards improving standards and consistency in the police discipline system.

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<sup>47</sup> [Baroness Casey review \(2022\) Analytical report](#)

<sup>48</sup> [An inspection of vetting, misconduct, and misogyny in the police service - His Majesty's Inspectorate of Constabulary and Fire & Rescue Services \(HMICFRS\)](#)

<sup>49</sup> In the case of non-senior officers, the Chief Constable (ordinarily delegated to a lower-ranking officer)



**Recommendation 1**

The College of Policing should consider developing an accreditation programme for professional standards investigators.

## TERM 2: Disproportionality in dismissals

Assess whether there is disproportionality in dismissals and, if so, examine the potential causes.

### 2.1 Introduction

Trust and confidence in policing requires a transparent and effective disciplinary system. The system must ensure that those officers who fall seriously below the standards and professional behaviour expected of them are dealt with robustly. The police misconduct system must also reassure the public, police officers and members of police staff that the process is functioning fairly and in accordance with the rules set out.

Where disproportionality in the system exists, the policing sector must seek to understand why, and consider what measures need to be taken to cement fairness and professionalism, so everyone can trust the system's outcomes, regardless of their background.

Though research into disproportionality in the dismissals system across all protected groups is limited, there have been a number of reports in recent years completed by the policing sector, including the NPCC, which have been considered by this review<sup>50</sup>. The Government also welcomes the data and feedback provided by forces and stakeholders on this important issue.

Previous reports on disproportionality primarily focused on ethnic groups where historically such disproportionality exists. However, one study conducted by the London Policing Ethics Panel in 2021<sup>51</sup> studied MPS data, finding that men are over-represented in both special case hearings (since the introduction of the 2020 regulations known as accelerated hearings) and misconduct hearings. The same study found that female officers in these hearings had a higher number of prior disciplinaries than male counterparts. Those in special case hearings were also found to be younger, and have fewer years of service, than the MPS average. This reflects the importance of considering other demographic trends and, as part of this review, we tried to consider, where possible, other protected characteristics such as gender and

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<sup>50</sup> The Government updated [guidance](#) in December 2021 on writing about ethnicity, including words and phrases we use and avoid, and how we describe ethnic minorities and different ethnic groups. We normally refer to ethnicity and not race. This is because surveys usually ask people for their ethnicity and not their race and using consistent terms helps people to understand our data. However, we recognise that a number of reports and evidence will have been published before December 2021 and stakeholders may still use this language, and therefore on this occasion will reference language such as 'BAME' (black, Asian and minority ethnic) when appropriate for discussing relevant evidence.

<sup>51</sup> [London Policing Ethics Panel \(2021\) Review of Special Case Hearings in the Metropolitan Police Service. London: The London Policing Ethics Panel](#)

sexuality. However, it is clear that data remains limited, and this is discussed in the 'limitations' section of this chapter. Indeed, the review received reflections from a number of forces about this issue, with one force Professional Standards Department (PSD) noting that *“it must be recognised that not all protected characteristics are recorded within our systems, such as sexual orientation and disability (in some cases)”*.

## 2.2 Findings from previous reports

The NPCC carried out research in 2019 to understand disproportionality in police complaint and misconduct cases for black, Asian and ethnic minority police officers and staff, which was overseen by, now retired, Deputy Chief Constable Phil Cain<sup>52</sup> (Cain Report). The report provides a substantive evidence base, findings and a series of recommendations to tackle disparities faced by police officers and staff from ethnic minority backgrounds, including on potentially why instances of disproportionality occur.

The Cain Report found that, despite limitations due to data quality issues and small sample sizes, there was evidence of race disproportionality in the earlier stages of police complaints and conduct processes. However, it recognised that the absence of any evidence at the time for ethnic disparities at the later stages of complaint and conduct processes did not necessarily mean that disproportionality did not exist at these stages. The report made a number of key findings, including:

- A failure of supervisors to deal with low level matters at the earliest opportunity, leading to a disproportionate amount of internal conduct allegations against black, Asian and ethnic minority officers being assessed by PSDs;
- For black, Asian and ethnic minority officers subject to a misconduct investigation, the final outcome is significantly more likely to result in low-level or no sanction outcomes when compared with their white colleagues; and
- A significantly higher proportion of conduct allegations for white officers were assessed as management action, misconduct or gross misconduct compared to those for officers from a black, Asian and ethnic minority background.

Further research commissioned by the NPCC<sup>53</sup> found that at a national level between October 2019 and September 2020, when compared to a white officer, black, Asian and ethnic minority officers were:

- 1.39 times more likely to be subject of a conduct related investigation;

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<sup>52</sup> [NPCC Understanding Disproportionality in Police Complaint Misconduct Cases for BAME Police Officers & Staff 2019 - Final Report](#)

<sup>53</sup> [NPCC Complaints and Misconduct Portfolios Update on BAME Disproportionality in the Police Misconduct System](#)

- 1.26 times more likely to be subject of a case to answer determination;
- 1.6 times more likely to be dismissed; and
- 1.3 times more likely to receive either a written warning or final written warning.

Officers from a black, Asian and ethnic minority background were significantly more likely than a white officer to receive one of the lesser, advice-based sanctions, and were 1.6 times more likely to have their case not proven at hearing.

The Cain Report suggested that some black, Asian and ethnic minority officers have been disproportionately subjected to an unnecessary misconduct investigation and this experience is likely to have an impact on the health, reputation, career progression and even community of ethnic minority officers. The NPCC<sup>54</sup> has suggested that more focus should be put on the 'probity and proportionality of a case journey rather than the outcome'. It is important to note that the NPCC research only considered 12 months of data, which can fluctuate across years, and resulted in very small sample sizes in some cases.

It is also important to highlight that research considering data on disproportionality within the misconduct system and proceedings tends to be approached in slightly different ways, adopt different methodologies and may not always be comparable.

Other research has also considered the reasons for disproportionality. As mentioned earlier in this section, it has been found that there has been a reluctance of supervisors to address low-level incidents<sup>55</sup>. Research conducted by MOPAC identified potential causes via academic theories including a fear of being labelled racist.<sup>56</sup> This fear from supervisors may result in low-level incidents, which could be resolved through informal conversations, going uncorrected and reaching the stage where formal action is required.

Smith, Johnson and Roberts (2014) suggested that supervisors may escalate low-level incidents, as they are concerned that their line managers may take a greater interest in cases involving ethnic minority officers and their decisions were more likely to be scrutinised<sup>57</sup>. This study also found ethnic minority

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<sup>54</sup> [NPCC Complaints and Misconduct Portfolios Update on BAME Disproportionality in the Police Misconduct System](#)

<sup>55</sup> McDaniel, J. and Malik, N., (2022) Managing allegations concerning Black and Asian police officers, cultural competence and reflective practice under the Police (Conduct) Regulations 2020. *The Modern Law Review*, 86(2), pp.498-517

<sup>56</sup> Wunsch, D., Hughes, C., Hobson, Z. and Yesberg, J., (2016) *Disproportionality in Misconduct Cases in the Metropolitan Police Service*. London: Mayor of London Office for Policing and Crime.

<sup>57</sup> Smith, G., Hagger Johnson, H., & Roberts, C. (2014). Ethnic minority police officers and disproportionality in misconduct proceedings. *Policing and Society*, 25(6), 561-578.

officers who had experienced misconduct investigations and admitted to wrongdoing felt that white officers were more likely to be dealt with informally for similar behaviour. The Cain Report suggested that these issues and perceived differences in how cases are handled have led ethnic minority officers to feel that white officers are treated more favourably<sup>58</sup>. It has also contributed to a perception that the threshold for breaches of professional standards appear lower for officers from ethnic minority backgrounds.

Major-General Chapman highlighted that police appear to have problems managing difference in their workforce, and what could be dealt with informally ends up as disciplinary proceedings against officers from black and minority ethnic backgrounds<sup>59</sup>. The Cain Report found that ethnic minority officers have reported a lack of cultural competence during PSD investigations, where they experienced inconsistencies and a failure of PSDs to consider culture when conducting investigations<sup>60</sup>. Within this report, a survey of PSDs also found inconsistencies in their approach on use of guidance and working practices to understand cultural difference for allegations<sup>61</sup>.

Research conducted by MOPAC highlighted that implicit bias, both conscious and unconscious, may be a factor contributing to disproportionality<sup>62</sup>. Smith, Johnson and Roberts (2014) conducted interviews with officers and identified cases of misconduct proceedings being used to disrupt the career development of black, Asian, and ethnic minority officers, and to deter them from making allegations against other officers<sup>63</sup>. With consideration to the MPS specifically, the Casey Review in 2023 found black and Asian officers and staff were far more likely than their white colleagues to raise a grievance<sup>64</sup>. In particular, black officers and staff were found to be twice as likely as their white colleagues to raise a grievance.

Positive action has been identified in response to the Cain Report, including from PSDs who have introduced processes to better understand the reasons for any black, Asian and ethnic minority officer disproportionality. For example, focused PSD training and development, use of critical friends in assessments

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<sup>58</sup> [NPCC Understanding Disproportionality in Police Complaint Misconduct Cases for BAME Police Officers & Staff 2019 - Final Report](#)

<sup>59</sup> [Chapman, C., \(2014\) \*An independent review of the police disciplinary system in England and Wales\*. London: Home Office.](#)

<sup>60</sup> [NPCC Understanding Disproportionality in Police Complaint Misconduct Cases for BAME Police Officers & Staff 2019 - Final Report](#)

<sup>61</sup> [NPCC Understanding Disproportionality in Police Complaint Misconduct Cases for BAME Police Officers & Staff 2019 - Final Report](#)

<sup>62</sup> [Wunsch, D., Hughes, C., Hobson, Z. and Yesberg, J., \(2016\) \*Disproportionality in Misconduct Cases in the Metropolitan Police Service\*. London: Mayor of London Office for Policing and Crime.](#)

<sup>63</sup> Smith, G., Hagger Johnson, H., & Roberts, C. (2014). Ethnic minority police officers and disproportionality in misconduct proceedings. *Policing and Society*, 25(6), 561-578.

<sup>64</sup> [Baroness Casey Review Final Report \(2023\)](#)



from ethnic minority groups compared to white officers. This highlights that disparity seems to come from internal misconduct cases raised by officers.

The Casey Review also touched on the use of Regulation 13, in terms of the disproportionality in its use. The review analysed a dataset of the 619 uses of Regulation 13 in the MPS between April 2018 to March 2022. It was found that disproportionate numbers of female, black and ethnic minority officers in their probationary period resigned in this period. Ethnic disproportionality in the use of Regulation 13 was also found to be much more pronounced than in the misconduct system. Black and Asian probationers were twice as likely to have a Regulation 13 case raised against them than their white colleagues. Within the 2018-2022 cohort of police constables and detective constables with 2 or less years of service, black officers were 126% more likely to be subject to a Regulation 13 case than white officers. Asian officers were 123% more likely and officers from mixed ethnicity groups were 50% more likely.

Research conducted by Sherman et al. in 2023<sup>68</sup> sought to compare the probability of police officer dismissals in London between misconduct hearings chaired by senior officers and LQCs. It concluded that, in the 22 months prior to hearings being chaired by LQCs, and the first 22 months after LQCs were introduced, the probability of dismissal for officers in LQC-chaired hearings was substantially lower than in senior officer-chaired hearings. A larger difference in the proportion of black, Asian and minority ethnic and white officers dismissed was seen for cases heard at LQC-chaired hearings compared with senior officer-chaired hearings. The research shows that black, Asian and minority ethnic officers were 115% more likely than white officers to be dismissed at LQC-chaired hearings (58% of black, Asian and minority ethnic officers were dismissed compared with 27% of white officers). By comparison, at senior officer-chaired hearings, black, Asian and minority ethnic officers were 13% more likely to be dismissed than white officers (52% of black, Asian and minority ethnic officers were dismissed compared with 46% of white officers). We note that this was a descriptive analysis of the differences in dismissal rates over a specific sample size (19 LQC-chaired hearings involving black, Asian and minority ethnic officers took place over this period), and the analysis is unable to fully differentiate cases proven to amount to gross misconduct with those not.

### 2.3 Data

A number of stakeholders who provided evidence to our review reflected the findings made in the Cain Report and other research, particularly stressing the

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<sup>68</sup> Sherman, L.W., Villa-Llera, C., Barnes, G.C. and Roner, M., (2023) Comparing Probability of Police Officer Dismissals in London Between Misconduct Hearings Chaired by Chief Officers and Legally Qualified Chairs. *Cambridge Journal of Evidence-Based Policing*, 7(1), pp.1-19.

importance of early intervention and appropriate management of low-level conduct allegations by supervisors.

Others highlighted steps that have been taken to address disproportionality, with one force noting that its PSD *“works closely with our Equality, Diversity and Inclusion (EDI) teams throughout [its] investigations, seeking advice and guidance as well as offering advice to the panel should they need it where there is a diversity or inclusion matter. Data on all aspects of PSD matters is regularly examined by our Strategic EDI Board, which is chaired by the Chief Constable”*.

One IPM noted a concern that *“not all officers receive the occupational health support and psychiatric assessment that should take place way before the cases come to the hearing panel”*. Each force, as part of ensuring the wellbeing of their staff, should continue to ensure each officer has access to adequate support.

#### Home Office analysis of police misconduct data

Data collected by the Home Office as a part of this review includes information on the protected characteristics of officers referred to proceedings where the case was finalised between 1 April 2015 and 31 March 2022. The data includes officers referred to both hearings and accelerated hearings (or special case hearings under the previous regulations). [A series of accompanying data tables](#) have been published alongside this report providing breakdown of trends by ethnicity, sex and age.

The available data means it has not been possible to determine from the data which hearings were chaired by LQCs and which by senior officers (see the limitations section of **Annex B** for further information).

#### **Ethnicity**

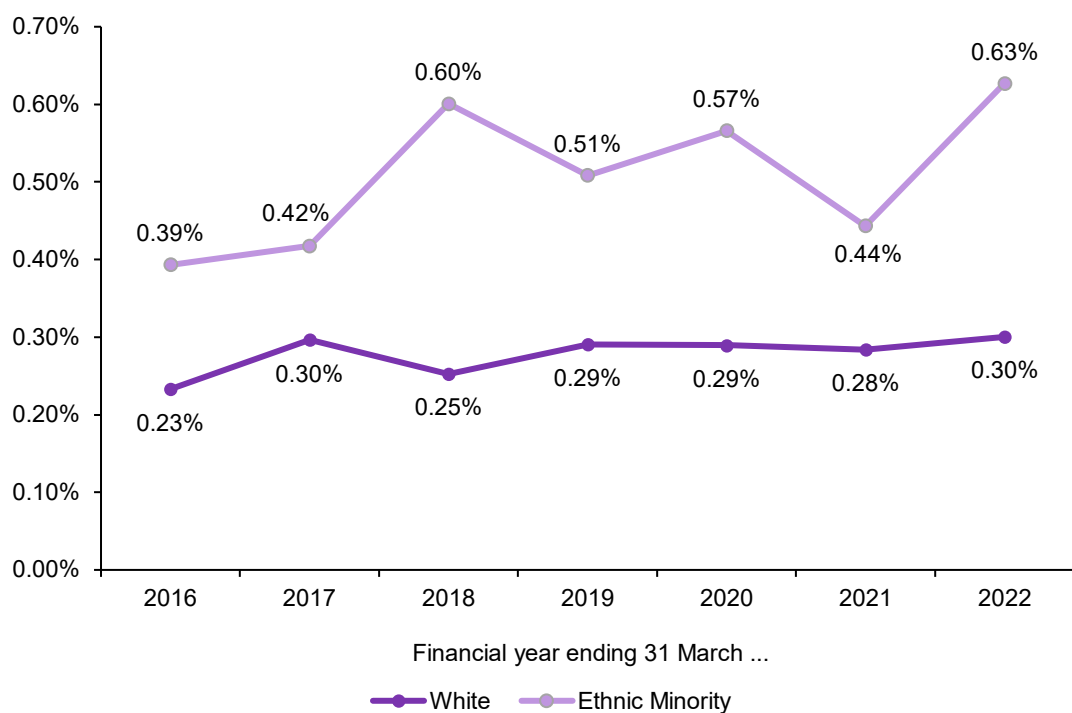
Over this period, 325 ethnic minority officers (excluding white minorities) were referred to a hearing or accelerated hearing, representing 12.1% of all officers (where ethnicity is known). This compares with 2,355 white officers referred to a hearing or accelerated hearing.

As a proportion of all officers in post, between 0.4% and 0.6% of the overall ethnic minority workforce (equivalent to 4 to 6 in every 1,000 ethnic minority officers) are referred to a hearing or accelerated hearing each year. This is consistently higher than amongst white officers, where between 0.2% and 0.3% of all officers (2 to 3 in every 1,000 white officers) are referred to hearings.



For example, in the latest year (ending 31 March 2022), 15.0% of all officers attending a hearing or accelerated hearing where ethnicity was identified were ethnic minorities (excluding white minorities). By comparison, in the total workforce ethnic minority officers (excluding white minorities) make up 8.3% of officers (including special constables) as at 31 March 2022. This is equivalent to 63 officers in every 10,000 attending a hearing compared with 30 in every 10,000 for white officers.

**Figure 2: Proportion of officers in post referred to a hearing or accelerated hearing, by ethnicity**



When considering officers dismissed, since the year ending 31 March 2016, 64% of white officers attending a hearing or accelerated hearing were dismissed, compared with 72% of ethnic minority officers. When looking at each year individually ethnic minority officers have seen a higher dismissal rate consistently. However, due to the relatively small number of ethnic minority officers dismissed each year (generally between 25 and 50), comparisons should be made with caution.

Since 2019, the data allows us to consider cases by misconduct finding level. Between 1 April 2019 and 31 January 2023, where a misconduct finding level has been recorded, 87% of officers referred to misconduct hearings were found to have committed gross misconduct. Similar levels are seen between the white and ethnic minority groups (86.4% and 87.2% respectively).

Looking at the outcome of officers who received a finding of gross misconduct, 85% of ethnic minorities were dismissed, compared with 81% of white officers.

In summary, since April 2019, ethnic minority (excluding white minorities) officers were on average 1.87 times more likely to face a hearing than white officers. Among these who faced a hearing, a similar proportion were found to have committed gross misconduct, though ethnic minority officers were slightly (1.04 times) more likely to be subsequently dismissed.

As a proportion of the workforce 49 in every 10,000 ethnic minority officers were dismissed in the year ending 31 March 2022, compared with 22 in every 10,000 white officers. This difference is largely as a result of higher proportions of ethnic minority officers referred to hearings, though as described previously, a small difference in dismissal rate upon the finding of gross misconduct was also seen.

## Sex

Data has also been collected on the sex of officers referred to misconduct hearings. As a proportion of the overall workforce, between 0.13% and 0.19% of all female officers were referred to a hearing each year, consistently lower than the 0.32% to 0.42% seen amongst male officers. In the year ending 31 March 2022, 15.6% of the officers who attended a hearing or accelerated hearing were female, lower than the proportion of all officers and specials who were female (33.1% at the end of the previous financial year).

When considering officers dismissed, since the year ending 31 March 2016, 65% of female officers attending a hearing or accelerated hearing were dismissed, the same as the dismissals rate seen amongst male officers. In each individual year there are some differences between the male and female groups, however due to the relatively small number of female officers referred to misconduct hearings, the dismissal rate can fluctuate.

Between 1 April 2019 and 31 January 2023, where a misconduct finding level has been recorded, 87.2% of female officers referred to misconduct hearings were found to have committed gross misconduct. A similar proportion was seen amongst male officers (86.5%).

Looking at the outcome of officers who received a finding of gross misconduct, 79% of females were dismissed, compared with 83% of male officers.

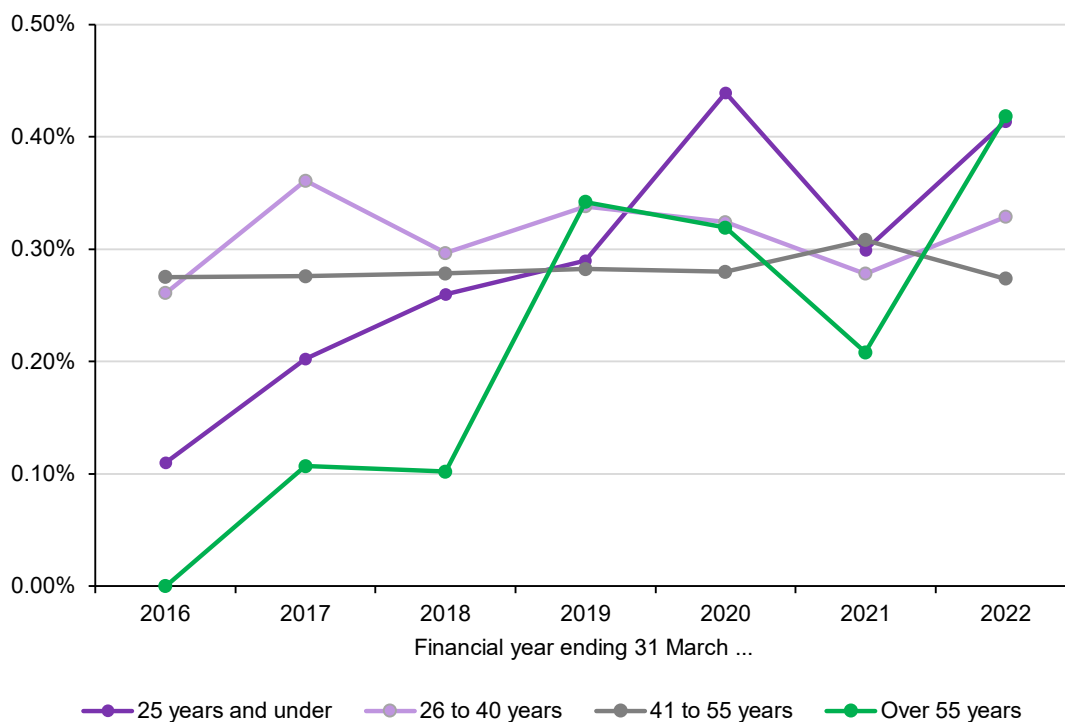
## Age

In the year ending March 2022, 0.41% of all officers aged 25 or under faced a misconduct hearing or accelerated hearing (equivalent to 41 in every 10,000 officers aged 25 or under). This compares with 33 in every 10,000 officers aged 26 to 40 and 27 in every 10,000 officers aged 41 to 55.

A rate similar to that of officers aged 25 or under was seen for officers aged over 55 (42 in 10,000), however this is based on a very small number of proceedings as this group only represent 2% of the workforce.

The proportion of officers aged 25 or under, or aged over 55, who have faced misconduct hearings has increased in recent years, whilst proportions of officers aged between 26 and 55 have remained more constant.

**Figure 3: Proportion of officers in post referred to a hearing or accelerated hearing**



When considering dismissals, between 1 April 2015 and 31 March 2022, there is some difference between the proportion of officers facing a hearing who received an outcome of dismissal by age group. Of officers aged 25 years and under, 73% were dismissed, compared with 64% for officers aged 26 to 40 and 41 to 55, and 69% for officers aged over 55.

Since 2019, the data allows us to consider cases by misconduct finding level. Between 31 April 2019 and 31 January 2023, where a misconduct finding level has been recorded, 87% of officers referred to misconduct hearings were found to have committed gross misconduct.

A higher proportion of officers 25 years and under received a gross misconduct finding level (91%) when compared with other age groups (85% for officers aged 26 to 40, 87% for officers aged 41 to 55, and 85% for officers aged over 55).

Where gross misconduct has been found, a greater proportion of officers aged 25 and under and over 55 were dismissed (both 88% and 89% respectively) when compared with officers aged 26 to 40 and 41 to 55 years (83% and 79% respectively).

In September 2019, the Government made a manifesto commitment to recruit an additional 20,000 police officers<sup>69</sup> in England and Wales by 31 March 2023. This “uplift programme”, saw over 46,000 new police officer recruits between November 2019 and 31 March 2023.

As such there has been an increase in the volume and proportion of officers who are both younger and have fewer years in service, when compared to before the uplift programme. Data published as a part of the Police Officer Uplift statistics<sup>70</sup> show that around 13% of officers were aged 25 or under as at 31 March 2023, an increase on 7% as at 31 March 2019, before the programme began.

It is therefore difficult to separate any effect of length of service and of age on recent trends of decisions made at a misconduct hearing. Similarly, consideration should be given to the increase in proportions of less experienced ethnic minority officers and female officers in recent years.

Analysis of data collected by the Home Office as a part of this review shows that the number of cases referred to hearings involving officers (excluding specials) with less than 5 years’ service has been steadily growing since 2016, becoming the largest group since the year ending 31 March 2019.

This year-on-year increase has been broadly in-line with increases in the volume of officers in post with less than 5 years’ service. This can be seen by considering the proportion of all officers with less than 5 years’ service that were referred to a hearing or accelerated, which remained relatively stable

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<sup>69</sup> <https://www.gov.uk/government/news/national-campaign-to-recruit-20000-police-officers-launches-today>

<sup>70</sup> <https://www.gov.uk/government/statistics/police-officer-uplift-final-position-as-at-march-2023>

(between 37 in 10,000 and 41 in 10,000) between the years ending March 2016 and March 2021.

An increase was however seen in the year ending 31 March 2022 when 47 in every 10,000 officers with less than 5 years' service were referred to a hearing. This was higher compared with other length of service groups:

- 31 in every 10,000 with between 5 and less than 10 years' service
- 35 in every 10,000 with between 10 and less than 15 years' service
- 29 in every 10,000 with between 15 and less than 20 years' service
- 18 in every 10,000 with more than 20 years' service

Officers with less than 5 years' service, also saw the highest rate of dismissal where gross misconduct was found (86%). By comparison, when found to have committed gross misconduct:

- 78% of officers with between 5 and less than 10 years' service were dismissed
- 85% of officers with between 10 and less than 15 years' service were dismissed
- 77% of officers with between 15 and less than 20 years' service were dismissed
- 77% of officers with more than 20 years' service were dismissed

## 2.4 Limitations

As mentioned above, there are limitations in the data collected and provided by forces which means we only have sufficient enough data to comment on the protected characteristics of ethnicity, sex and age.

The white male group makes up around 60% of all officers in England and Wales as at 31 March 2022. As such, the volume of officers from minority groups referred to hearings is comparatively low each year. Caution should therefore be taken when comparing groups across a single year as differences in percentage rates between groups may equate to a small number of cases. Due to the low number of cases referred to hearings involving officers from minority groups, our analysis has not considered outcomes of hearings and accelerated (previously special case) hearings separately.

Prior to 2019, data on misconduct finding level is largely incomplete. Comparisons of dismissal rates between groups should therefore be made with caution as the severity of cases may not be comparable. From 2019 onwards we are able to compare dismissal rates where gross misconduct has

been proven, which presents a truer comparison of outcome where a consistent threshold of severity has been met.

A full list of limitations can be found in [Annex B](#) of this report.

## 2.5 Recommendations

As highlighted in the 'limitations' section above, our analysis was unable to make substantive conclusions about disproportionality pertaining to protected characteristics other than ethnicity, age, and sex.

It is recognised from the data we have available that there are disparities in some aspects of the dismissals process in relation to race. Though caution should be given due to the smaller survey size, when considering officers dismissed, since the year ending 31 March 2016, 64% of white officers attending a hearing or accelerated hearing were dismissed, compared with 72% of ethnic minority officers. Previous reports, including the Cain Report, also identified signs of disparity in relation to race and a number of key findings, including a failure of supervisors to deal with low level matters at the earliest opportunity. We welcome the work being taken by the policing sector to understand why these disparities may exist and putting in measures to improve policing culture.

In terms of age, data suggests that officers aged 25 years and under are more likely to face disparities in aspects of the dismissal system. For example, since April 2019, 88% of officers aged 25 years and under found to have committed gross misconduct were dismissed this is above levels seen amongst the 26 to 40 years and 41 to 55 years age groups (83% and 79% respectively). However, we recognise that the data available includes small sample sizes and so comparison to other age ranges must be seen with some caution.

For factors such as sex, there are indications of disproportionality at certain points in the process. For example, data suggests that men are more likely to be referred to misconduct hearings, but that in terms of outcomes, there is little difference between the proportion of men and women found to have committed gross misconduct.

However, we recognise that data in all factors is limited, and indeed, a number of stakeholders who provided evidence to our review commented that the lack of consistent data available on disproportionality throughout the dismissals system resulted in an inability to engage meaningfully on the question of disproportionality.

The Government remains committed to eliminating instances of discrimination and promoting equality of opportunity and fairness for all police officers and staff. To ensure meaningful, targeted action, there must be a rigorous and well evidenced dataset. Therefore, this report's conclusions and recommendations will seek to improve the data available, and to bring together action being taken across the policing sector to tackle these disparities and ensure the misconduct system is fair, transparent and effective.

Since 2022, the Home Office has published an annual statistical publication covering police misconduct. These statistics currently include high-level information on the overall number of complaints and internal conduct matter allegations by the ethnicity and sex of the officer or member of police staff involved. As experimental statistics, these remain under development and present an opportunity to provide increased transparency on other protected characteristics as well as exploring disproportionality at different stages of the misconduct process.

As discussed, we welcome the work the policing sector is already undertaking to explain why such disparities exist and to put in place measures to tackle disproportionality. The action below will therefore also seek to ensure meaningful data can help explain disparities, consider what more can be done to support forces in data collection and where needed, support forces to tackle disparities.

### **Recommendation 2**

To give greater clarity and context to misconduct and dismissals data, and reassure the public about its use, the Government, with the policing sector, will consider the way data is reported, where there are possible gaps, and how to improve collection to enable more meaningful data across England and Wales.

Whilst we have been able to comment on the existence of disproportionality with regards mainly to ethnicity, and have also considered sex and age, there is limited evidence on a person's experiences from the perspective of intersectionality. Factors in different combinations (such as ethnicity, sex, age, sexuality and disability) may also impact on an individual's experience of the disciplinary system.

### **Recommendation 3**

The Home Office, with policing partners, should carry out multi-variate analysis to identify any disproportionality related to intersectional characteristics.

With the delivery of a multi-variate analysis, and measures put in place to provide greater clarity and context to misconduct and dismissals data, the Government will use the results to work with the policing sector, staff associations and other key stakeholders to outline why such disparity exists across protected characteristics and consider a range of measures to mitigate them within policing.



## TERM 3: Trends in the use of sanctions

Establish any trends in the use of sanctions at both hearings and accelerated hearings – in particular the levels of dismissals.

### 3.1 Introduction

This review was established, in part, due to concerns around possible lenient sanctions being applied at misconduct proceedings – where officers found to have committed gross misconduct by independent misconduct panels, or by Chief Constables at accelerated hearings, have been issued with alternative sanctions and not dismissed.

Some have linked a potential increase in this perceived leniency, with the introduction of LQCs in 2016. Baroness Casey's interim findings of her review into the MPS, references a fall in dismissals which "*coincides with the 2016 introduction of Legally Qualified Chairs*" but urges caution, stating there could be other causes of such a decline.

In fact, as part of her evidence to the Home Affairs Select Committee on 22 March 2023<sup>71</sup>, Baroness Casey also highlighted that outcomes such as these can also occur when the police make the decision themselves.

*"For example, when a police sergeant has been convicted of a criminal offence of indecent exposure for doing a rather graphic version of that on a public train, they can keep him in the force as opposed to making the decision to sack him. On so many levels they close in on themselves, and they think they are untouchable."*

Research conducted by Sherman et al. in 2023<sup>72</sup>, also used MPS data to consider the perceived leniency of LQCs. All 234 standard misconduct hearings resolved by the MPS in the 22 months prior to hearings chaired by LQCs and the first 22 months after were examined. The probability of dismissal in misconduct hearings chaired by senior officers was found to be 47% (67 of 142) while the probability in LQC led hearings was 34% (31 of 92).

<sup>71</sup> [Committees - UK Parliament](#)

<sup>72</sup> Sherman, L.W., Villa-Llera, C., Barnes, G.C. and Roner, M., (2023) Comparing Probability of Police Officer Dismissals in London Between Misconduct Hearings Chaired by Chief Officers and Legally Qualified Chairs. *Cambridge Journal of Evidence-Based Policing*, 7(1), pp.1-19.

## 3.2 Background

In considering the trends in sanctions, it is also important to consider other facts or changes which may have either contributed to, or impacted on, the data.

The most notable change was the introduction of LQCs in January 2016, meaning that cases after that date (with the exception of those where the officer was given a notice of referral *prior* to the introduction of LQCs), which were referred to a hearing, would have been heard by a misconduct panel, led by an LQC. The decisions around whether a case is proven and, if so, what the sanction ought to be, are a majority decision by the panel. Indeed, the review has been provided anonymised case studies of where the LQC has decided an officer ought to be dismissed, but has been “out-voted” by the other panel members and so a Final Written Warning was issued.

In October 2017, the College of Policing introduced its Guidance on Outcomes in Police Misconduct Proceedings, which was further updated in 2022<sup>73</sup>. Prior to then, those chairing misconduct proceedings made decisions without the benefit of any structured guidance when deciding on seriousness, severity and the culpability of officers. This guidance has since helped to ensure “*consistency and transparency*” in decision-making. This guidance includes the principle that those chairing misconduct proceedings should “*consider less severe outcomes before more severe outcomes*”, in effect choosing the least severe outcome which deals adequately with the issues of the case.

In December 2017, new legislation was introduced allowing the bringing of misconduct proceedings in respect of former police officers and special constables. More on these changes is set out in **chapter 9** of this report, but the review’s data on dismissals also includes those officers who *would have been* dismissed, had they still been serving.

Research conducted by the Association of Police and Crime Commissioners (APCC) in 2017 surveyed each Office of the Police and Crime Commissioner (OPCC) and 18 PSDs. It was found that 42% of PSD respondents and a small number of OPCCs believed LQC decision-making was too lenient. Some forces had raised concerns on this with their Police and Crime Commissioner (PCC)<sup>74 75</sup>. Though whilst the review has not analysed individual cases, it is generally considered that cases are now increasingly more complex. They

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<sup>73</sup> [Guidance on outcomes in police misconduct proceedings 2022 \(college.police.uk\)](https://college.police.uk/guidance-on-outcomes-in-police-misconduct-proceedings-2022)

<sup>74</sup> [Association of Police and Crime Commissioners., \(2017\) APCC review of Legally Qualified Chairs and misconduct hearings. London: Association of Police and Crime Commissioners.](#)

<sup>75</sup> In this report, references to Police and Crime Commissioners (PCCs) are references to local policing bodies as defined in section 101 Police Act 1996 (legislation.gov.uk), including Mayors exercising PCC functions.

can often involve technical data and, following amendments to the Home Office statutory guidance<sup>76</sup> on professional standards, performance and integrity in February 2020, disclosure obligations are now more closely aligned with those under the Criminal Procedure and Investigation Act 1996<sup>77</sup> (CPIA) and associated guidance. This inevitably means that both forces and officers are now also frequently represented by high-quality legal counsel.

Another change to legislation was introduced in 2015, requiring misconduct hearings to be held in public and the publication of certain information regarding each hearing. In interviews with police officers<sup>78</sup>, Porter et al. (2015) found that publicising the outcomes of discipline proceedings was a helpful way of setting the expected standards of behaviour within the force. Openness about the detail of cases was seen to reduce the risk of misinterpretation and damaging rumours. The review by Major-General Chapman also suggested that the public nature of misconduct hearings helps to ensure transparency, while creating a positive impact on public confidence.

### 3.3 Limitations

As a part of this review, data has been collected concerning misconduct proceedings handled under the Police (Conduct) Regulations 2012 and Police (Conduct) Regulations 2020. Whilst the Police (Conduct) Regulations 2012 came into effect from 22 November 2012, any proceedings relating to cases first received prior to this date continued to be handled under prior regulations. Data from any such cases were not collected as a part of this review. We have started all analysis from the financial year ending 31 March 2016 as by this point, the majority of cases handled under prior regulations would be finalised.

Following the introduction of LQCs on 1 January 2016, some hearings continued to be chaired by senior officers where notice of the hearing had been given. Using the data available to the Home Office as a part of this review, it has not been specifically possible to determine the hearing chair for cases received before 1 January 2016. Direct comparisons between decisions made by at chief led and LQC led misconduct hearings have therefore not been possible with the data available.

As well as the introduction of LQCs, there have been a number of significant changes to the legislation and processes surrounding the misconduct system, including in 2012, 2017 and 2020. Year-on-year comparisons should therefore

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<sup>76</sup> [Policing professional standards, performance and integrity - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/431212/policing-professional-standards-performance-and-integrity-2020.pdf)

<sup>77</sup> [Criminal Procedure and Investigations Act 1996 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1996/54/section/1)

<sup>78</sup> Porter, L., Webb, S., Prenzler, T. and Gill, M., (2015) *The role of leadership in promoting ethical police behaviour*. London: College of Policing.

be made with caution. New processes and regulations can also take some time to “bed in” to working cultures and recording systems. Direct causal links should not be made between changes in trends and specific changes to regulations and processes.

Further explanation of these and other limitations can be found in [Annex B](#) of this report.

### **3.4 Data analysis**

Data collected by the Home Office as a part of this review includes information on the volume of and outcomes received by officers referred to proceedings where the case was finalised between 1 April 2015 and 31 March 2022. [A series of supplementary data tables](#) have been published alongside this report providing more detailed breakdowns of hearings and accelerated hearings.

#### Officers referred to misconduct proceedings

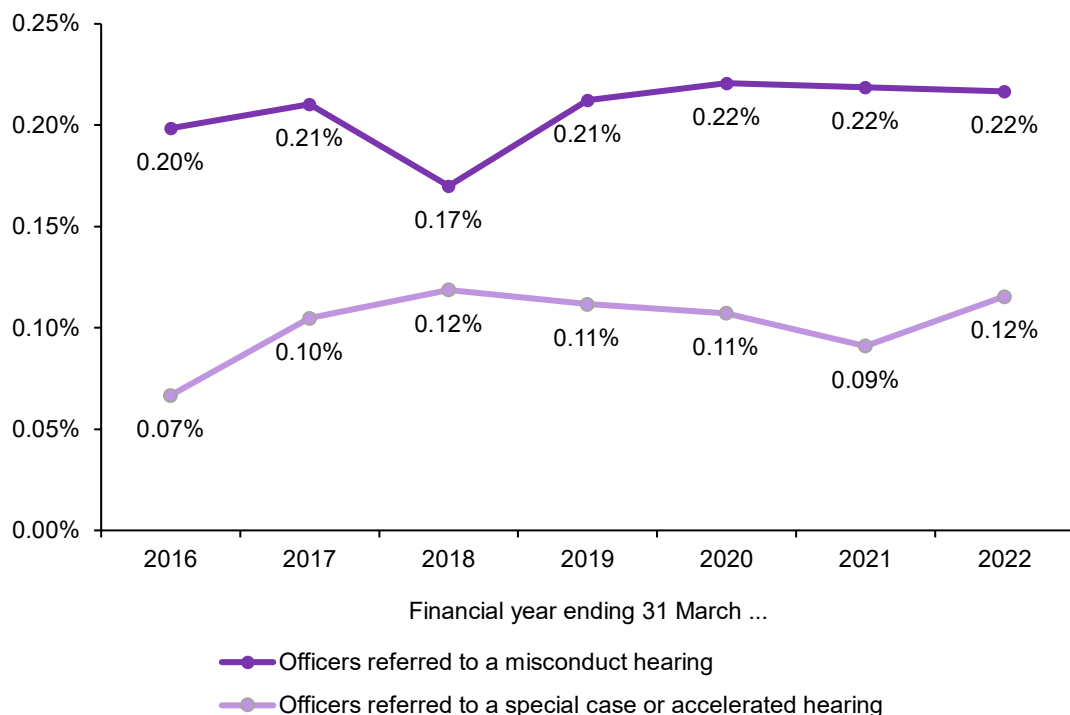
The overall number of officers referred to misconduct proceedings has gradually declined since the year ending 31 March 2016, as shown in Table B1 of the data tables accompanying this report.

However, this can be attributed to significantly fewer officers being referred to a misconduct meeting, which is an internal process and cannot result in an officer’s dismissal. In fact, in the year ending 31 March 2022, there were 41% fewer officers referred to a misconduct meeting than in the year ending 31 March 2016.

The number of officers referred to a misconduct hearing has remained broadly consistent. Between the years ending 31 March 2016 and 2022, the average number of officers referred to a misconduct hearing per year was 277. In the year ending 31 March 2016 there were 274 officers referred to hearings and, in the year ending 31 March 2022, there were 302.

This consistency is further reinforced when reviewing the number of officers referring to a hearing as a proportion of the total officer workforce, as shown in Figure 4.

**Figure 4: Officers referred to misconduct hearings as a proportion of the overall workforce, England and Wales**



With the exception of the year ending 31 March 2018, which saw a dip to 0.17%, that figure has remained consistent at between 0.20% and 0.22% since the year ending 31 March 2016, equivalent to approximately 2 in every 1,000 officers. Further details can be found in Table B2 of the data tables accompanying this report.

The number of officers referred to an accelerated hearing, shown in Table B1 of the [data tables accompanying this report](#), has also remained largely consistent. The average number of officers referred over the same period was 137, with 161 referred in the year ending 31 March 2022.

Similarly, there has been a consistent number of officers referred to an accelerated hearing as a proportion of the total officer workforce in recent years. This figure has remained between 0.09% and 0.12% since the year ending 31 March 2017, equivalent to 1 in every 1,000 officers. This is a slight increase on 0.07% seen in the year ending 31 March 2016. Further details can be found in Table B2 of the [data tables accompanying this report](#).

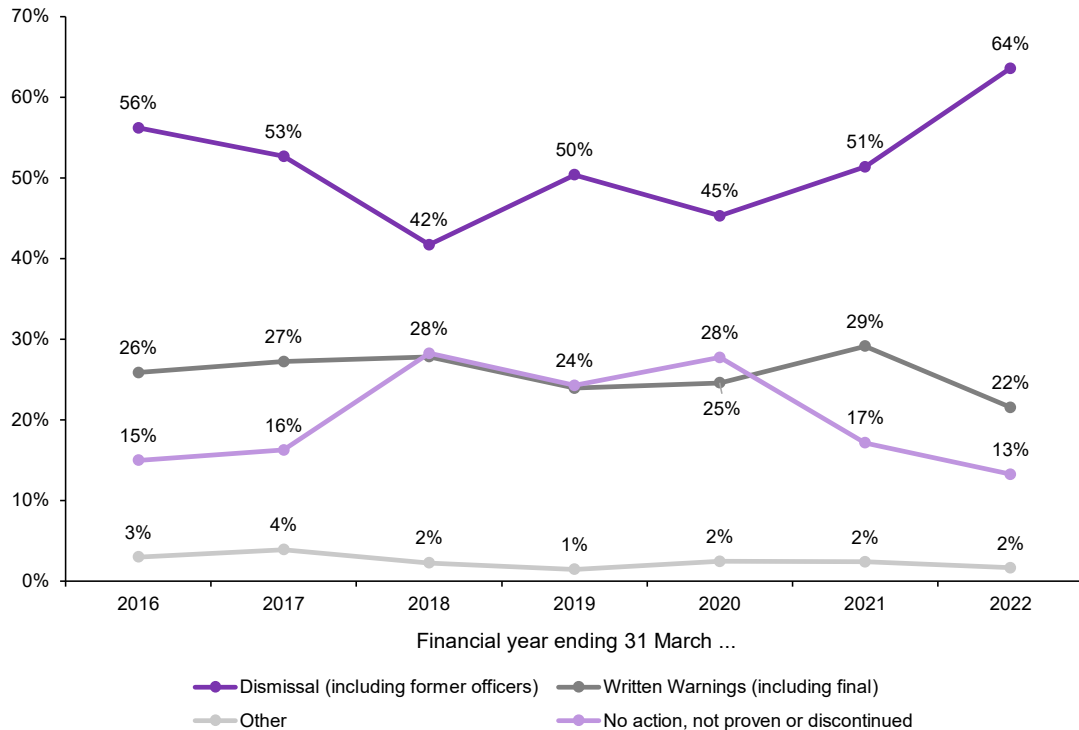
### Misconduct hearing outcomes

The review has found no evidence that dismissal levels are decreasing at misconduct hearings since the year ending 31 March 2016. Data analysis

shown in Table B3 of the [data tables accompanying this report](#) indicates that, the overall number of officers dismissed has been on an upwards trajectory in recent years despite a dips in the years ending 31 March 2018 and 31 March 2020. The year ending 31 March 2022 saw the highest number of officers dismissed in a year with 192 officers dismissed at hearings.

The year ending 31 March 2022 also saw the highest number of officers dismissed at a hearing as a proportion of all officers, with 14 in every 10,000 officers dismissed at a hearing. This compares with between 7 and 11 in every 10,000 officers for previous years since the year ending 31 March 2016. It is crucial to not only consider the overall numbers of officers dismissed, but also as a proportion of those referred to a hearing. Figure 5 shows the proportion of officers referred to a hearing by outcome. This similarly shows a dip in the year ending 31 March 2018, (to 42% from 56% and 53% in the 2 previous years), followed by an overall increase in recent years. In the year ending 31 March 2022, 64% of officers referred to misconduct hearings were dismissed, the highest proportion seen since the data begins in the year ending 31 March 2016.

**Figure 5: Officers referred to misconduct hearings by outcome, England and Wales**



The available data means it has not been possible to conduct analysis directly comparing the pre-LQC period with the period following their introduction, nor has it been possible to determine from the data which hearings were chaired

by LQCs and which by senior officers (see limitations section). However, where officers were given notice of their hearing prior to 1 January 2016, hearings continued to be chaired by senior officers, therefore we are able to determine that a majority of the hearings taking place in the year ending 31 March 2016 were chaired by senior officers.

Despite a dip in dismissals in the year ending 31 March 2018, the proportion of officers receiving written warnings remained fairly stable in this year and has overall seen a downwards trend when comparing the year ending 31 March 2016 with the latest year (since the introduction of LQCs in January 2016).

Coinciding with the dip in dismissals in the year ending 31 March 2018, there was an increase in both the volume and proportion of hearings resulting in no action, not proven or proceedings discontinued (driven particularly by an increase in “not proven” cases). In the year ending 31 March 2018, 28% of all officers facing a hearing received an outcome of no action, not proven or proceedings discontinued, compared with 15% in the year ending 31 March 2016. In recent years, this rate has fallen to similar levels seen in the year ending 31 March 2016 (13% in the year ending 31 March 2022).

An officer can only be dismissed at a hearing where gross misconduct has been proven (or misconduct where a final written warning is already in place). Data on the misconduct finding level was largely incomplete until the year ending 31 March 2020. It is therefore not possible to separate whether trends in dismissals are driven by differences in finding level or subsequent outcome.

Since the year ending 31 March 2020, the proportion of officers found to have committed gross misconduct has remained relatively stable (around 80%). The most recent year (ending 31 March 2022) saw the highest level of officers dismissed where gross misconduct was found (80% of officers found to have committed gross misconduct were dismissed).

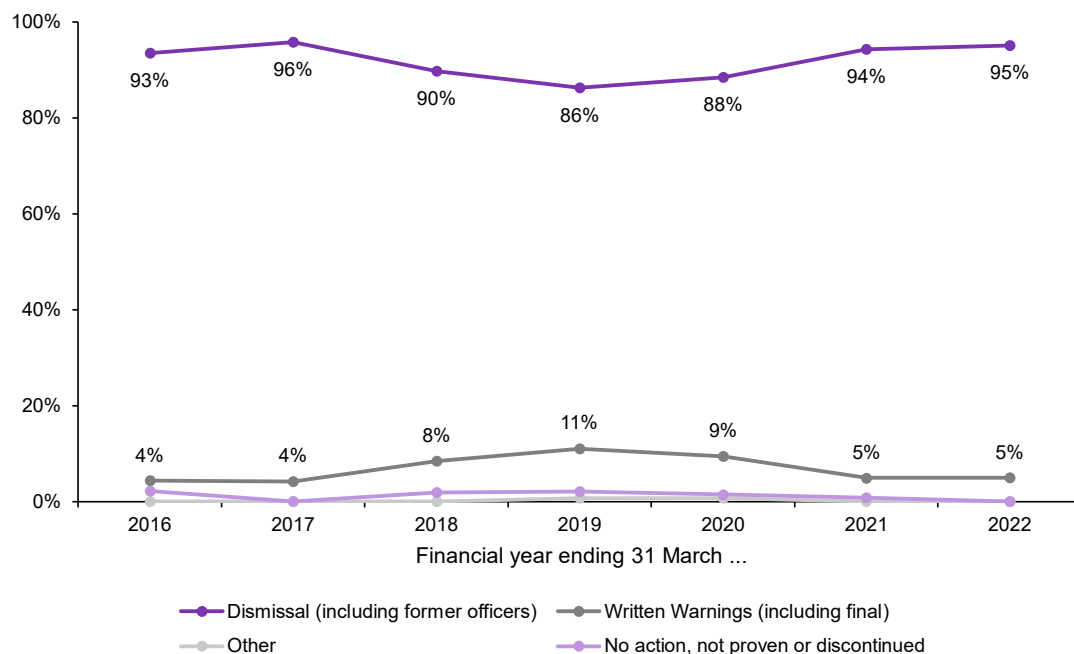
### Accelerated hearing outcomes

Between the years ending 31 March 2018 and 31 March 2021, the total number of officers referred to accelerated hearings declined gradually each year. The number of officers referred to an accelerated (or special case) hearing fell by 22% over this period. This number has since seen a sharp rise over the most recent year (ending 31 March 2022).

This picture is mirrored in the total number of officers dismissed at accelerated hearings, which decreased year-on-year between the year ending 31 March 2018 and 31 March 2021– ultimately by 17%. However, like at misconduct

hearings, this has sharply increased in the most recent year.

**Figure 6: Officers referred to accelerated or special case hearings by outcome, England and Wales**



The proportion of officers dismissed at an accelerated hearing has also decreased – from highs of 96% in the year ending 31 March 2017 to just 86% in the year ending 31 March 2019. Again, the proportion has increased since then to 95% in the most recent year.

This is correlated with a sharp rise in the use of written warnings. The proportion of cases which are not proven, or no action is taken, has remained low, but between the year ending March 2019 and March 2020 a greater proportion of officers were found guilty of misconduct or gross misconduct but issued with a written warning.

### 3.5 Recommendations

The concern put forward by some Chief Constables, and supported by others, is not that misconduct panels are making findings of misconduct instead of gross misconduct. Instead, the argument is one of perceived lenient decision-making on sanctions where gross misconduct has been found. There have been cases – including ones chaired by Chief Constables *and* LQCs – which have resulted in criticism in the press and concern by the public. These were not cases where misconduct was found instead of gross misconduct, but where proven gross misconduct resulted in a final written warning and not dismissal.



The evidence does not support an overall decline in either the volume or proportion of dismissals. Between the years ending 31 March 2017 and 31 March 2019, there has been a decline in dismissals at accelerated hearings, chaired by Chief Constables, where an increased proportion of officers had been found to have committed gross misconduct, but issued with written warning rather than being dismissed. However, the level of dismissals at accelerated hearings has increased in each year following the year ending 31 March 2019. Whilst the statistical evidence does not support an argument of systemic leniency, it is nevertheless recognised that individual cases of this nature can impact heavily on public confidence.

Gross misconduct is serious. In fact, it is defined as being a breach of the Standards of Professional Behaviour that is “*so serious as to justify dismissal*”<sup>79</sup>. Given the severity of acts which constitute gross misconduct, and the significant impact that such behaviour has on both the public and the wider policing workforce, the sanction which follows must adequately address the seriousness of that behaviour in order to protect the public interest, uphold public confidence in policing, and protect the reputation and standing of the police. It is therefore recommended that where an officer is found to have committed gross misconduct, there must be a strong, rebuttable presumption of dismissal, as the minimum necessary sanction for the purposes of addressing gross misconduct in disciplinary proceedings, unless extenuating or mitigating circumstances apply.

#### **Recommendation 4**

The Police (Conduct) Regulations 2020 – and associated guidance – should be amended to provide a rebuttable presumption of dismissal where gross misconduct is proven, unless extenuating or mitigating circumstances apply.

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<sup>79</sup> Regulation 2(1) - [The Police \(Conduct\) Regulations 2020 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

## TERM 4: Composition of misconduct panels

To review the existing model and composition of misconduct panels, including assessing the impact of the role of legally qualified chairs (LQCs), review whether chiefs should have more authority in the process (including whether the chief should take the decision with protection for the officer provided by way of a right of appeal to the Police Appeals Tribunal and consideration of when barring occurs) and review the legal/financial protections in place for panel members.

### 4.1 Introduction

As outlined earlier in this report, the composition of misconduct panels changed in January 2016. Prior to that date, misconduct hearings were chaired either by a senior officer or senior HR professional<sup>80</sup>, supported by either an officer of Superintendent rank or above (in the case of a HR-chaired hearing) or a HR professional (in the case of a senior officer-chaired hearing). In both cases, the panel also comprised of an IPM.

LQCs were introduced to chair misconduct hearings, supported by an officer of at least Superintendent rank and an IPM. However, cases determined as meeting the criteria for an accelerated hearing are ordinarily heard by Chief Constables alone<sup>81</sup>.

Decisions as to whether an officer has committed misconduct or gross misconduct and, if so, what the appropriate sanction ought to be, are a majority decision made by the panel as a whole. This applies both to cases held under the previous and current regulations.

The introduction of LQCs stemmed from a direct recommendation of the Chapman Review. In that report, Major-General Chapman discussed the merits of introducing such changes. One such merit being that other professions permit representation by lawyers at hearings which threaten professional status, making it important that policing be the same. The report also discussed the merits of lawyers enhancing the efficiency and quality of outcomes. The report concluded that:

*“A legally qualified chair for a 3-person panel ought to speed up hearings, reduce appeals and increase public confidence.”*

Indeed, the purpose of the police misconduct regime is threefold, with the first

<sup>80</sup> Regulation 25 - [The Police \(Conduct\) Regulations 2012 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

<sup>81</sup> Except in the case of senior officers.

being to “maintain public confidence in, and the reputation of, the police service”<sup>82</sup>, but also to:

- uphold high standards in policing and deter misconduct; *and*
- protect the public.

It is therefore crucial that any changes to the existing disciplinary system are rightly focussed on improving public trust and confidence in policing. This requirement has perhaps never been so crucial, following a number of high-profile cases and reports which have raised serious questions of the sector. It has also seen public confidence in whether the police are doing a good job fall<sup>83</sup>. Although the majority of people have overall confidence in their local police, there has been a decline which may have been impacted by recent high profile cases<sup>84</sup>. Following the publication of Baroness Casey’s report into culture and standards within the MPS on 21 March 2023<sup>85</sup>, the Home Secretary said:

*“...there have been growing concerns around the performance of the Metropolitan police and its ability to command the confidence and trust of Londoners. That follows a series of abhorrent cases of officers who betrayed the public’s trust and hideously abused their powers.”*

These events have resulted in calls, by some parts of the sector, for Chief Constables to have a greater say in deciding whether an officer in their force ought to be dismissed or not. It is ultimately the Chief Constable, as the corporation sole<sup>86</sup>, who is held to account for the standards and conduct of the officers operating under their direction and control, and so it raises the question of how they can be held to account in this way, without being able to determine who they recruit *and* who they dismiss. One senior officer told the review that:

*“It is patently sub-optimal that the employer (Chief Constable or Metropolitan Police Service equivalent) cannot determine whether to dismiss or retain a police officer where an allegation of gross misconduct is proven.”*

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<sup>82</sup> [Guidance on outcomes in police misconduct proceedings 2022 \(college.police.uk\)](#)

<sup>83</sup> [Confidence in the police sinks in two years | YouGov](#)

<sup>84</sup> [Crime in England and Wales: Annual supplementary tables - Office for National Statistics \(ons.gov.uk\)](#)

<sup>85</sup> [The Baroness Casey Review | Metropolitan Police](#)

<sup>86</sup> Schedule 2, paragraph 2 - [Police Reform and Social Responsibility Act 2011 \(legislation.gov.uk\)](#)

## 4.2 Other jurisdictions

### Policing organisations

Currently, neither Police Scotland nor Police Service of Northern Ireland (PSNI) use LQCs at misconduct hearings for junior officers. In her independent review into arrangements in Police Scotland<sup>87</sup>, now Lady Elish Angiolini KC took evidence from a range of stakeholders on the potential introduction of LQCs, including from the MPS. Police Scotland were supportive of the use of LQCs for senior officers, but held concerns over the proportionality of their use for more junior officers:

*“... the rationale supporting the appointment of LQC [legally qualified chairs] for senior officers is less relevant in instances relating to junior officers and in the majority of cases those officers holding the rank of Constable or Sergeant.”*

This tended to support the view by His Majesty’s Inspectorate of Constabulary for Scotland (HMICS), who commented that:

*“If the issue is less about the potential influence of familiarity between parties, and more about the perception of a process where decisions about misconduct are made entirely within the police chain of command, it would be possible to introduce some form of independent representation on the panel. The panel could still be chaired by a police officer senior in rank to the subject officer, but joined by someone from an organisation separate from the police, who would not need to be legally qualified. Another way of achieving the same aim would be to ensure any misconduct appeals are independently assessed.”*

Lady Elish ultimately concluded that, in a similar way to arrangements for senior officers, an *“independent panel should be constituted for gross misconduct hearings for non-senior ranks, with a legally qualified chair”*. However, the explanatory notes for the Police (Ethics, Conduct and Scrutiny) (Scotland) Bill<sup>88</sup> proposes introducing LQCs for senior officers only, citing concerns around delays and costs and that concerns around *“perceptions of proximity bias”* are only relevant for senior officers.

In its review of professional standards last year, the Northern Ireland Policing Board (NIPB) has also considered this issue, concluding that *“the lack of a*

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<sup>87</sup> [Complaints, investigations and misconduct in policing - implementation of recommendations: thematic progress report - June 2021 - gov.scot \(www.gov.scot\)](#)

<sup>88</sup> [Policy Memorandum \(parliament.scot\)](#)

*legally qualified chair can also leave the PSNI vulnerable to litigation, the impact of which is significantly more police officers appealing misconduct outcomes in Northern Ireland than in the other police services across the UK*<sup>89</sup> and it recommended exploring the possibility of legislative change to the chairing of misconduct hearings.

### Professional regulatory bodies

Disciplinary arrangements certainly differ amongst professional jurisdictions, however there is one key difference between policing and other professions. LQCs, sitting as part of a police misconduct panel, are empowered to ultimately dismiss an officer. Whereas in other professional jurisdictions, panels operate to determine an individual's "fitness to practise". Decisions on dismissing that individual are made separately, often prior to those by the regulator, by that person's employer. In effect, police misconduct panels make "employer" decisions, in a way that does not happen in other professional bodies.

The use of LQCs, or legal advisors, as part of the composition of disciplinary panels is quite widespread across professional bodies. Procedures operating in respect of the Teaching Regulation Agency (TRA), Medical Practitioners Tribunal Service (MPTS), Judicial Conduct Investigations Office (JCIO) and Social Work England all frequently include legally-qualified individuals, albeit in different ways.

The TRA utilises a legal advisor, who does not participate in the decision-making process. Most MPTS hearings include an LQC who advises on points of law and some cases may similarly have a legal assessor who advises on points of law but does not play a part in the decision-making. Social Work England utilises adjudicators or advisers, who must be legally-qualified and JCIO disciplinary panel chairs must be a more senior office-holder or former office-holder and so are, by virtue, legally-qualified.

### **4.3 Quality of decision making**

It is vital that any system which makes such significant decisions (in the case of policing, possibly barring an individual from the sector) also makes ones which are of a high-standard and consistent. In determining whether an officer ought to be dismissed, or whether they should remain as an officer, it must be right that misconduct panels also consider the impact that any misconduct has had on the police service and wider public confidence.

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<sup>89</sup> [Review of PSNI Professional Standards: Recommendations for Improvement \(nipolicingboard.org.uk\)](https://www.nipolicingboard.org.uk/review-of-psni-professional-standards-recommendations-for-improvement)

A PSD told the review of concerns where the presiding LQC was perceived to have “*failed to understand the full impact of their decision*”, highlighting themes such as domestic abuse. Other forces have also recommended compulsory training for panel members, further professionalising their roles – including that of LQCs – as well as ensuring that panel members have contextual understanding of forces’ values and standards. Currently, training for LQCs is primarily provided internally through the National Association of Legally Qualified Chairs (NALQC) – although some PCCs do also provide this.

Whilst, in the research conducted by the APCC, some respondents considered that LQC decision-making was too lenient, it should be borne in mind that decisions on outcomes and sanctions at a misconduct hearing are not made by LQCs – they are majority decisions made by the misconduct panel as a whole. In fact, the review has heard evidence of cases where the LQC has been “out-voted” by other panel members, when recommending dismissal. Misconduct panels also only make decisions on cases before them, they have no involvement in the quality or standard of the case referred to a hearing.

On launching this review, the Home Secretary said that “*standards in policing must improve*”<sup>90</sup> and this is as relevant for those working in PSDs, as it is for the rest of the policing workforce. The College of Policing has introduced training courses for PSD investigators and Appropriate Authorities. However, whilst those officers who specialise in firearms policing or child abuse and sexual offence investigations are expected to become accredited under specific development programmes, the same does not exist for professional standards investigators, who require a thorough understanding of both criminal and public law alongside detailed knowledge of the police’s professionalism and integrity regulatory framework.

#### 4.4 Likelihood of appeals

As a part of this review, the Home Office has collected data from police forces on the number of appeals to the Police Appeals Tribunal (PAT) and their outcome. [Supplementary data tables](#) summarising trends in PATs have been published alongside this report. This data shows that the number of appeals received has generally been on a downwards trend. In the year ending 31 March 2016 there were 70 appeals finalised in England and Wales, and with the exception of the year ending 31 March 2021, this number has either reduced or remained stable each year. In the year ending 31 March 2022, 25 appeals were finalised.

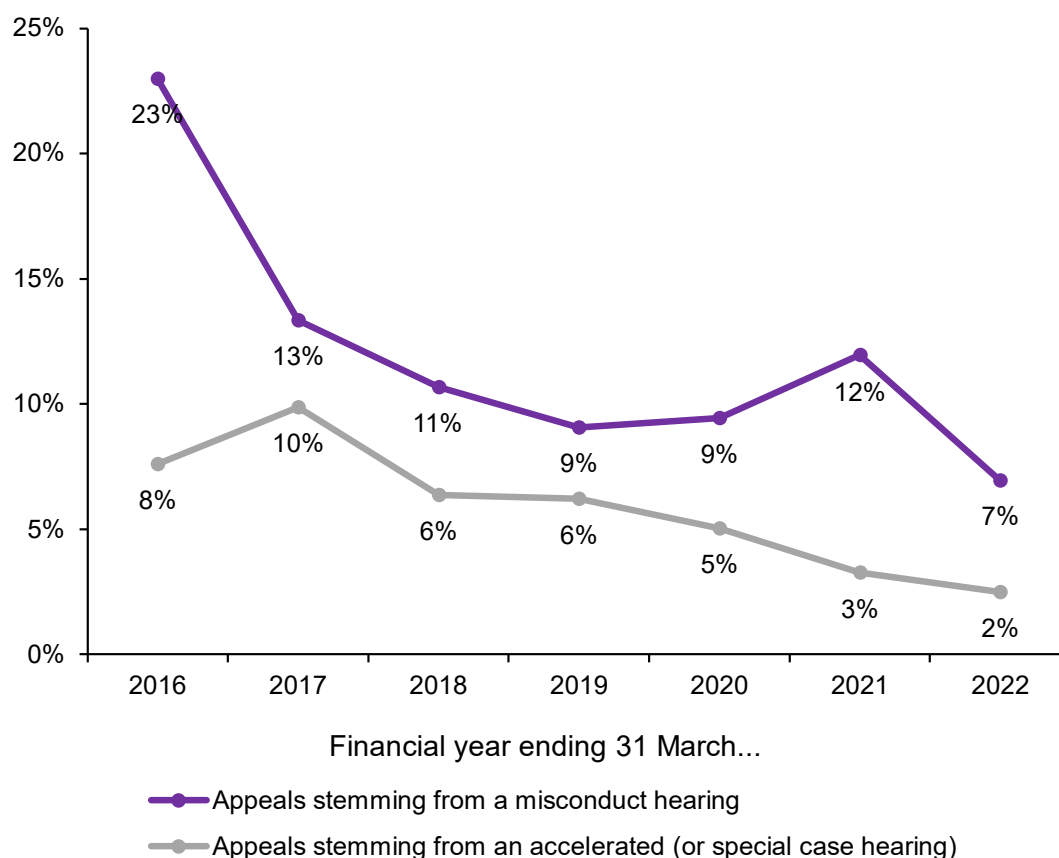
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<sup>90</sup> [Review of police dismissals launched - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/review-of-police-dismissals-launched)

Figure 7 shows appeals as a proportion of all hearings and accelerated hearings. This shows that the proportion of hearings that resulted in an appeal has been declining since the year ending 31 March 2016, coinciding with the introduction of LQCs, falling from 23% to 7% in the latest year (cases finalised in the year ending 31 March 2022). This compares with 41% of Police Service of Northern Ireland (PSNI) hearings appealed in the year ending 31 March 2022. Over the past 3 years, the average in England and Wales is 9%, compared to 45% in Northern Ireland.

The proportion of accelerated hearings resulting in an appeal is consistently lower than for hearings, however this is to be expected due to the nature of accelerated hearings, where stronger evidence that gross misconduct has occurred is available.

**Figure 7: Proportion of appeals stemming from a misconduct hearing or accelerated hearing**



Whilst there are a number of potential factors, the evidence of declining appeal rates in England and Wales since the introduction of LQCs, contrasted with data of higher appeal rates in Northern Ireland, suggests that independent legal expertise on misconduct panels has increased officer confidence in

panel decisions.

#### 4.5 Impact on public confidence

Public confidence has been shaken both by deeply concerning cases of police misconduct, but also high-profile criticism of the police's handling of allegations.

The review has heard evidence from a number of OPCCs. PCCs offer a helpful perspective in terms of public confidence, given that their very role includes being the “voice of the people”<sup>91</sup>. In general, OPCCs express broad support for LQCs continuing to play a role in the system, given the independence that they bring to the process – but that this could be strengthened by giving Chief Constables a greater say in the process. One PCC told us that:

*“I recognise and agree that the current system can produce results that are not strong enough, do not reflect the need to maintain public confidence and has the risk of becoming unnecessarily legalistic. However, the system is independent, transparent, and open to scrutiny. Instead of starting again the government should consider adapting the system, strengthening its guidance, and making it easier for Chief Constables to intervene where they feel weak sanctions endanger public safety or confidence in policing.”*

Similar, an OPCC told us that the introduction of LQCs had been “welcomed” and that they have found that “*on the whole decisions made have been fair and comparable to assessments and decisions that were previously made by the Chief Constable as Chair*”. But, despite this broad consensus, many OPCCs identified drawbacks to the system, including financial costs, efficiency and delays.

In a survey conducted by the APCC in 2017<sup>92</sup>, 14% of OPCCs and 26% of PSDs reported having received any public feedback following misconduct hearings. Positive feedback tended to congratulate the transparency of the process while negative feedback tended to suggest the decisions made were too lenient and highlight defects in holding hearings by video link or in venues that were inaccessible.

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<sup>91</sup> [Role of the PCC \(apccs.police.uk\)](https://apccs.police.uk)

<sup>92</sup> [Association of Police and Crime Commissioners., \(2017\) APCC review of Legally Qualified Chairs and misconduct hearings. London: Association of Police and Crime Commissioners.](#)



Within the APCC survey, LQCs also considered some of the venues for misconduct hearings inappropriate for the public to attend. In general, LQCs reported that they were satisfied with their ability to engage with forces constructively in relation to transparency. Although, they did report feeling hindered in ensuring transparency by late receipt of papers and leaving inadequate time for notices to be given.

In the same survey, 70% of OPCCs were satisfied that the misconduct process was transparent. However, some did report that they felt it was too transparent. This was due to the fact that disciplinary matters, which in other professions would be handled in private, are being dealt with publicly.

Research conducted by Cucciniello, Porumbescu and Grimmelikhuijsen (2017) considered the transparency of organisations and governments more generally. In this study, it was found that increasing transparency can result in increased quality of processes, with public awareness of an organisation's information encouraging improvement<sup>93</sup>. This study also found that, overall, public trust and satisfaction in an organisation is generally positive when there is more transparency. However, this may depend on the type of information that is shared. Another study found that when sharing police performance data with participants, if performance was good this led to increased trust in the police, while poor performance led to reduced trust<sup>94</sup>.

Transparency of negative information, such as misconduct, may undermine public confidence<sup>95</sup>. However, collecting and circulating misconduct information evidences the scale of the problem and demonstrates that it is being taken seriously.

Despite the impact that changes to the composition of misconduct panels may have on public confidence and trust, it is important to note this is dependent on the level of public awareness. The Committee on Standards in Public Life conducted a survey in 2015<sup>96</sup>, finding that while 68% of respondents had heard of PCCs, only 15% had heard of local Police and Crime Panels (PCPs). 73% of white respondents agreed they had heard of a PCC, while only 39% of respondents from ethnic minority groups agreed. Of the respondents surveyed in London, only 26% were aware of arrangements for police accountability. In 2022, the IOPC found that public awareness of the IOPC had increased considerably between March 2021 to March 2022 (49% to 64%),

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<sup>93</sup> Cucciniello, M., Porumbescu, G.A. and Grimmelikhuijsen, S., (2017) 25 years of transparency research: Evidence and future directions. *Public administration review*, 77(1), pp.32-44.

<sup>94</sup> Mason, D., Hillenbrand, C. and Money, K., (2014) Are informed citizens more trusting? Transparency of performance data and trust towards a British police force.

<sup>95</sup> Newburn, T., (2015) Literature review: police integrity and corruption. London: Her Majesty's Inspectorate of Constabulary.

<sup>96</sup> [Committee on Standards in Public Life \(2015\) Public Awareness of Police Accountability. London: Committee on Standards in Public Life.](#)

corresponding with high profile events such as the murder of Sarah Everard<sup>97</sup>. Although, 80% of respondents did not know enough about the IOPC to say anything on what the organisation does. It is therefore important to note that the public may be relatively unaware of policing procedures, the changes that are made to them, and what impact they will have.

#### 4.6 Timeliness

The Home Office has begun to collect and publish timeliness data as part of its police misconduct statistical bulletin<sup>98</sup>. However, there is a lack of sufficient quality timeliness data, meaning that it is not possible to measure any impact the introduction of LQCs has had on the timeliness of cases.

A number of OPCCs and PSDs have raised concerns that the timeliness of misconduct hearings is often impacted by the availability of both LQCs and lawyers instructed by both sides. It is clearly detrimental to confidence in the system if there are delays due to simple availability of personnel.

The review has also heard evidence that some accelerated hearings may not commence for several weeks, given Chief Constables' own limited availability. It is unclear whether, if misconduct hearings were chaired by Chief Constables, it would likely result in any improvements to timeliness. The NALQC told the review that, where hearings with multiple officers involve complex allegations and legal issues, *"they are likely to take weeks, if not months, to conclude"*. In 2022 there were 302 misconduct hearings and 161 accelerated hearings – and this number has been increasing. The availability of Chief Constables to manage and chair a large (and increasing) number of hearings on their own would itself be expected to impact the overall timeliness of misconduct hearings. The review also recommends that Chief Constables should have the power to delegate the chairing of a misconduct hearing to other senior officers - this is likely to increase the capacity of forces to hold hearings.

In considering other factors which may impact on the timeliness of misconduct proceedings, it is also important to consider how investigations and hearings have changed over time. Investigations (and by that virtue, also hearings) are now increasingly complex. Hearings are also now more quasi-judicial than before, with an increased focus on disclosure, legal arguments and witness evidence. This means that invariably hearings *may* now take longer, but it is not necessarily possible to attribute this to the introduction of LQCs. Increases in the timeliness of cases may also be the consequence of legally fairer

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<sup>97</sup> [IOPC \(2022\) IOPC Public Perceptions Tracker Summary Report: England and Wales. London: IOPC](#)

<sup>98</sup> [Police misconduct statistics - GOV.UK \(www.gov.uk\)](#)

processes.

#### 4.7 Indemnity and immunity

The indemnity and immunity of misconduct panels has been a long-standing issue of concern, in particular for LQCs. This concern was in-part increased as a result of a case in 2021 before the Court of Appeal (the *Eckland* matter)<sup>99</sup>. In this case, a former police officer, who had been dismissed following a misconduct hearing, made a claim against the Chief Constable that his dismissal had been unlawfully discriminatory. This claim related to the decision-making of a misconduct panel and so the Chief Constable argued (among other objections) that such claims should be made against the panel. The Court of Appeal held that it should be the Chief Constable, and not individual panel members or the panel collectively, who is the appropriate respondent for unlawful discrimination claims in the Employment Tribunal. In this matter, the relevant applicable regulations were the Police (Conduct) Regulations 2012 (as amended in 2015), under which the panel was chaired by a LQC who was selected to a particular panel by the Chief Constable. LQCs have raised the concern that *Eckland* may be distinguished in a future case on the basis that LQCs are now selected to a panel by the PCC, and not Chief Constables, thereby loosening the connection between the LQC and the Chief Constable.

As a result of their wider concerns, some LQCs have decided not to sit until there is clarity over the indemnity arrangements in place. This has caused a number of delays to hearings through different regions. The NALQC has previously surveyed its members, with the majority (63%) of those who responded confirming that they do not hold professional indemnity insurance, which would cover them in their role as an LQC.

LQCs, as well as IPMs, are appointed by PCCs, who now provide a nationally consistent indemnity. The NALQC has however expressed concern that, as there is no statutory requirement for the indemnity to be provided, it could be removed in the future. The NALQC has also called for panel members to have an immunity from legal action being taken against them. This position has been supported by the APCC and APACE, due to the risk of significant financial liability on the OPCC, and also the Police Federation.

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<sup>99</sup> *Nicholas Eckland v Chief Constable of Avon and Somerset Constabulary* [2021] EWCA Civ 1961. In their judgment, the Court of Appeal relied on the previous decision by the Supreme Court in *P v Commissioner of Police for the Metropolis* [2017] UKSC 65, [2018] ICR 560.

## 4.8 Recommendations

Evidence shows that LQCs have brought much needed levels of independence, transparency and legal fairness to the system. But whilst Chief Constables are rightly held to account on the culture and standards within their forces, this is challenging when they do not have a leading role in proceedings which decide whether or not an officer should be retained in their force. It is crucial to improving standards in policing, that Chief Constables hold that responsibility, but in a way which does not remove necessary independence and legal expertise from the system.

The review therefore recommends that responsibility for chairing misconduct hearings is returned to Chief Constables (or delegated by Chief Constables to other senior officers), but that misconduct panels continue to comprise of both a legally-qualified panel member and an independent panel member. To ensure continued fairness, decisions on both the outcome and sanction should continue to be a majority decision.

This change takes into account the positives that LQCs have brought to the system and allows legally-qualified individuals to focus on ensuring the legal fairness of hearings. But it also strikes a crucial balance of retaining independence, whilst strengthening the role of Chief Constables. This enables Chief Constables to drive necessary improvements to standards in their forces and is supported by wider recommendations, which are set out fully throughout this report and listed at **Annex A**. To ensure that there are appropriate safeguards in the system, and that Chief Constables are able to be effectively held to account for standards in their forces, the Home Office will also explore the ability of PCCs to challenge decisions.

### **Recommendation 5**

Misconduct hearing panels should now be chaired by senior police officers, supported by a legally-qualified panel member and independent panel member.

As referenced earlier in this report, the review has heard evidence of the length of time it can take to hold an accelerated hearing. This is concerning, given that referral to an accelerated hearing can only take place where it is in the public interest for the individual to cease to be an officer “*without delay*”<sup>100</sup>. The regulations already state that a date for an accelerated hearing should be set which is “*must be not less than 10 and not more than 15 working days*” after an officer is given a notice of referral<sup>101</sup>. During any delays, officers who

<sup>100</sup> Regulation 49(2)(b) - [The Police \(Conduct\) Regulations 2020 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

<sup>101</sup> Regulation 52 - [The Police \(Conduct\) Regulations 2020 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

are highly likely to be dismissed, continued to remain on full pay.

The review recommends changes to the system, which place additional responsibilities on Chief Constables – including chairing hearings. Whilst we recognise the impact this could have operationally on forces, the NPCC has given assurances that such a model could be appropriately resourced by forces, without such unintended consequences

But to ensure those processes can be conducted swiftly and effectively, it is recommended that legislation is amended to explicitly allow Chief Constables to delegate all responsibilities under disciplinary arrangements – including the power to dismiss officers – to other senior officers (those above the rank of Chief Superintendent). This will enable the speed of the process to be increased – to the benefit of the officer concerned, the police force and members of the public.

### **Recommendation 6**

Legislation should be proposed to allow Chief Constables to delegate all disciplinary responsibilities – including dismissal – to other senior officers.

Both misconduct panels and PATs perform a vital role in upholding public confidence in policing and also maintaining standards. It cannot be right that panel members are at risk of personal liability whilst sitting in their official capacity.

This review recommends substantial changes to the misconduct system, which place a much greater responsibility on Chief Constables and, in doing so, to some extent reduces the responsibility of the other panel members, including the legally qualified panel member. We therefore consider that, in light of these significant changes, it is right that further consideration is given to the necessity of indemnity or immunity of panel members and Home Office officials should therefore engage with stakeholders to consider these points.

As the appointing body for PAT Chairs, the Home Office has already committed to providing an appropriate indemnity, thus removing the risk of personal financial liability on PAT Chairs.

## TERM 5: Use of Regulation 13

Ensure that forces are able to effectively use Regulation 13 of the Police Regulations 2003 to dispense with the services of probationary officers who will not become well-conducted police officers.

### 5.1 Introduction

Individuals who join the police service do so following an intensive period of training and vetting to ensure that they are suitable for the position. The required standard in policing, including the values set out in the Code of Ethics and the Standards of Professional Behaviour themselves, is made clear to new officers, as is the standard of performance expected of them. The Police Regulations 2003<sup>102</sup> set out clear terms of probationary service, including that all new police officers of the rank of constable (and in certain circumstances those who leave the police service and subsequently re-join) are subject to a probationary period of 2 years.

Regulation 13 of the Police Regulations 2003 provides that a probationary officer may be dispensed with at any time during their probationary period if the Chief Constable considers that they are *“not fitted, physically or mentally, to perform the duties of the office, or that the probationer is not likely to become an efficient or well-conducted constable”*. As such, Regulation 13 provides a truncated process to discharge probationers who are not suitable for the policing profession, enhancing the overall quality of the police service.

Chief Constables have ultimate discretion as to whether to rely on Regulation 13 as the most appropriate method of discharging a probationer. This is particularly relevant in the case of misconduct matters which, if dealt with via Regulation 13, would not lead to the individual’s inclusion on the police Barred List.

### 5.2 Data

As part of this review, the Home Office collected data on the use of Regulation 13 from the 43 territorial police forces in England and Wales, for the period between 22 November 2012 and 31 January 2023. Recording of the use of Regulation 13 is not standardised, and whilst forces may have taken steps in recent years to improve their recording of cases, the Home Office cannot guarantee the completeness and quality of this data. A subset of 30 forces

<sup>102</sup> HYPERLINK "<https://www.legislation.gov.uk/uksi/2003/527/contents/made>"The Police Regulations 2003 (legislation.gov.uk). Annex C made under regulations 10B and 12 of the Police Regulations 2003 makes detailed provisions on probation, including in respect of re-joiners, transferees and part-time officers.

were able to provide data for the full time period requested, however the number increases to 39 police forces when using data for the year ending 31 March 2019 onwards. As such, the Home Office has chosen to present data for 1 April 2018 onwards to allow for the inclusion of data from more police forces (39 forces). Further details on the limitations of the data are available in **Annex B** of the review. A collection of [supplementary data tables](#) have been published alongside this report.

Between 1 April 2018 and 31 January 2023, Regulation 13 was initiated 2,216 times against officers, based on data from 39 police forces<sup>103</sup>. In recent years the number of times Regulation 13 processes has been initiated has been increasing year on year, from 169 in the year ending March 2019 to 622 in the year ending March 2022. This increase can likely be attributed to improvements in the recording of Regulation 13 processes and in part to the increased number of new officers on probation, due to the Government's manifesto commitment to recruit 20,000 police officers in England and Wales by March 2023<sup>104</sup>. This is further demonstrated by the number of Regulation 13 cases initiated in the 10 months between 1 April 2022 and 31 January 2023 surpassing the previous financial year ending March 2022 (804 and 622 respectively).

In the year ending March 2022, 2.9% of police officers with less than 2 years' service had Regulation 13 processes initiated against them, equating to 291 police officers per 10,000 with less than 2 years' service. In comparison, in the year ending March 2019, prior to the Police Uplift Programme when there were fewer probationary police officers, 124 in 10,000 police officers with less than 2 years' service had Regulation 13 processes initiated against them.

Between the year ending March 2019 and 2022, the majority (84.7% to 92.4%) of Regulation 13 cases were initiated against officers for performance or attendance matters (where the initiation reason was known).

Of the instances where Regulation 13 was initiated against officers, between the years ending March 2019 and 2022, in the majority of cases (53.7%) the officer was subject to no further action (excluding where the outcome was not known). In a further 32.6% of cases the officer resigned. In 8.4% of cases the officer was dismissed. A small proportion resulted in the officer being referred to Unsatisfactory Performance Procedures and misconduct proceedings (1.9% and 0.6% respectively). This data does not capture instances whereby an officer may have had Regulation 13 processes initiated against them but

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<sup>103</sup> Excluding Cambridgeshire, Gwent, Leicestershire, and South Wales who were unable to provide data for the full time period between 1 April 2018 and 31 January 2023.

<sup>104</sup> [National campaign to recruit 20,000 police officers launches today - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/national-campaign-to-recruit-20-000-police-officers-launches-today)

chose to resign before the process was completed, therefore the data should be treated with caution.

Between the years ending March 2019 and 2022 the proportion of dismissals following Regulation 13 processes has fluctuated, increasing from 8.9% of cases in the year ending March 2019 to 11.7% in the year ending March 2020, before dropping to 8.5% in the year ending March 2021 and dropping further to 6.8% in the year ending March 2022.

### 5.3 Stakeholder views

In responding to the call for evidence, there were varying views among stakeholders as to whether Regulation 13 should be used to dispense with officers where there are allegations of misconduct or gross misconduct. Some felt that it should not present a “*short cut*” or “*easy option*” to remove these officers, particularly given that individuals discharged in this way are not added to the police barred list. This could pose a risk of them re-joining policing at a later stage. Others took the view that Regulation 13 should be amended to make it an effective alternative to the misconduct route or removed altogether and subsumed into the Police (Conduct) Regulations 2020.

Anecdotal evidence from stakeholders suggests that the application of Regulation 13 is inconsistent, and the process underused. One stakeholder noted that delegation of the responsibility of initiating a Regulation 13 case by the Chief Constable should be made clear to free up resources by enabling other senior officers to take this decision.

There were also concerns about the lack of accountability via the police Barred List for individuals who are discharged through Regulation 13. One suggestion was to require forces to make an entry on the Police National Database (PND) in cases where a probationer is discharged. This would ensure forces have full information on an individual when making appointment decisions.

When considering the Regulation 13 process itself, some stakeholders felt officers should be provided with clear documentation and an opportunity to present any mitigation. Others emphasised the need for a timely and efficient process with clarity on the delineation of roles and responsibilities between PSDs and HR. A number of respondents agreed that clearer guidance is needed in this area, particularly around the interaction of Regulation 13 with the misconduct and performance processes.



## 5.4 External reports

Concerns have been raised around whether forces are using the regulation to effectively to dismiss officers. The Casey Review's interim report<sup>105</sup>, published in 2022, analysed the 619 uses of Regulation 13 between April 2018 and March 2022 in the MPS. Only 8% of the Regulation 13 cases in the year ending 31 March 2020 and 4% in the year ending 31 March 2019 led to a dismissal.

In the HMICFRS' inspection on vetting, misconduct and misogyny in the police service, published November 2022, the Inspectorate also raised concerns about the use of Regulation 13<sup>106</sup>. The findings of this report suggested that officers completing probation are dismissed in ways other than under Regulation 13. Within the inspection it was found that some forces had been using the Police (Performance) Regulations 2020 to dismiss officers as an alternative to Regulation 13, even when the officer was still on probation. However, the report noted that the Police (Performance) Regulations 2020 do not apply if the officer has not yet completed their probationary period.

Baroness Casey found that within the MPS, many of the officers involved in a Regulation 13 case resigned. In the year ending 31 March 22, resignations where the officer was involved in a Regulation 13 case represented (143) 41% of all MPS resignations of officers still in their probationary period.

These alternative routes for officers leaving the force suggest that underperforming officers and those involved in misconduct during probation may still be removed from the force, but this is not always captured in Regulation 13 data.

A challenge in dismissing officers during their probationary period more generally is the use of rotation arrangements, which has made Regulation 13 more difficult to apply. Rotation arrangement involves a probationary police constable serving 6 months on one team then moving to another to provide experience of different areas of policing. The interim Casey report raised instances where misconduct was not identified or addressed due to these arrangements<sup>107</sup>. In these cases, issues were transferred to the next supervisors as an officer moved teams, meaning concerning behaviour went unchecked.

The opportunity for those who have been dismissed under Regulation 13 to

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<sup>105</sup> [Baroness Casey review \(2022\) Analytical report](#)

<sup>106</sup> [An inspection of vetting, misconduct, and misogyny in the police service - His Majesty's Inspectorate of Constabulary and Fire & Rescue Services \(HMICFRS\)](#)

<sup>107</sup> Ibid

then reapply or move to alternative areas of the police has also been raised as a concern. In their 2022 report, HMICFRS stated that the Police Barred List and Police Advisory List Regulations 2017<sup>108</sup> do not allow for officers dismissed under Regulation 13 to be added to the police Barred List<sup>109</sup>. This therefore gives the potential for an individual who has been dismissed under Regulation 13 to reapply to another police force. In these cases, the individual may then continue to engage in misconduct or under-performance in another part of the police.

Forces may also be reluctant to use Regulation 13 due to other challenges in its use. The interim Casey report found that the amount of paperwork required, fear of legal challenges, and the need to provide undeniable evidence may all contribute to forces being reluctant to using Regulation 13. In their report<sup>110</sup>, HMICFRS reported a lack of clarity around what was deemed as underperformance. Specifically, senior officers seemed uncertain as to whether an officer underperforming academically, such as when going through the Police Education Qualification Framework, could be discharged under Regulation 13. These findings suggest there may be aspects to the process of applying Regulation 13 that have caused forces to be hesitant, or uncertain, when to use it.

In the HMICFRS report a recommendation was made for the Home Office to consider whether lack of academic ability, particularly in the context of new ways of entering the police service, could come under the current definition of Regulation 13.

## 5.5 Recommendations

There appears to be considerable confusion around the use of Regulation 13 and how it is to be applied. Views from stakeholders echo these concerns and the lack of consistent data in this area tends to suggest that Regulation 13 is not currently being used as widely as it could be. This confusion continues despite existing Home Office statutory guidance which briefly covers Regulation 13.

It is therefore recommended by this review that the Home Office produces more comprehensive guidance on Regulation 13 to make clear that this process can be used in circumstances where educational or academic requirements or standards have not been met. The guidance should also

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<sup>108</sup> [The Police Barred List and Police Advisory List Regulations 2017 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

<sup>109</sup> [An inspection of vetting, misconduct, and misogyny in the police service - His Majesty's Inspectorate of Constabulary and Fire & Rescue Services \(HMICFRS\)](#)

<sup>110</sup> [An inspection of vetting, misconduct, and misogyny in the police service - His Majesty's Inspectorate of Constabulary and Fire & Rescue Services \(HMICFRS\)](#)

clearly set out the interaction between Regulation 13 and the police misconduct and performance systems.

### **Recommendation 7**

The Home Office should draft more comprehensive guidance on the use of Regulation 13 to assist forces with its consistent use.

There is also a clear need for delegation of power from the Chief Constable in the use of Regulation 13, to allow more flexibility and speed to use this process. This would bring Regulation 13 into line with other decisions within the discipline system which can be delegated by Chief Constables – as well as those changes set out in recommendation 6 of this report. This is expected to ensure a timelier process which will, in turn, free up resources.

### **Recommendation 8**

Legislation should be proposed to allow the delegation of Regulation 13 powers from Chief Constables to other senior officers

While the Home Office has responsibility for the broad procedures in place for Regulation 13, individual police forces should continue to have their own policies in place to identify and deal with these officers. Such policies should be robust in order to withstand scrutiny as well as being streamlined so as to increase their effectiveness. This should include clear processes to add individuals who have been discharged through Regulation 13 onto the PND to inform future vetting decisions.

### **Recommendation 9**

All Chief Constables should ensure that they have a clear policy in place to deal with matters under Regulation 13.

The review has also found inconsistency between forces on the data collection and retention of the Regulation 13 procedure. In order to ensure that future policy thinking in this area is able to draw on more robust data, Chief Constables should ensure that data systems are in place to capture this information. In particular, this should support a joined-up approach between Learning & Development departments and PSDs to ensure that all cases instigated under Regulation 13 – either for performance or conduct matters – are recorded centrally.

### **Recommendation 10**

All Chief Constables should ensure that there are data systems in place to accurately capture Regulation 13 data.

## TERM 6: Available appeal mechanisms

Review the available appeal mechanisms for both officers and Chief Constables, where they wish to challenge disciplinary outcomes or sanctions, ensuring that options are timely, fair and represent value for public money.

### 6.1 Officers' rights of appeal

Police officers are office holders, rather than employees. As such, they do not have the ability to pursue unfair dismissal claims at the Employment Tribunal (save on unlawful discrimination grounds<sup>111</sup>). Instead, police officers have a statutory right of appeal to the specialist Police Appeals Tribunal. There is no cost to the officer to appeal to the PAT, although the officer may need to meet their own legal costs if the officer is represented at any part of the process<sup>112</sup>.

Following misconduct proceedings, a non-senior officer, against whom a finding of misconduct or gross misconduct has been made, may appeal to the PAT under the following grounds<sup>113</sup>:

- a) that the finding or decision to impose disciplinary action was unreasonable; *or*
- b) that there is evidence that could not reasonably have been considered at the original hearing which could have materially affected the finding or decision on disciplinary action, *or*
- c) that there was a breach of the procedures set out in the Conduct Regulations, the Complaints and Misconduct Regulations or Part 2 of the Police Reform Act 2002 or unfairness which could have materially affected the finding or decision on disciplinary action.

Similarly, an officer, against whom a finding of unsatisfactory performance or attendance or gross incompetence has been made, may appeal to the PAT following performance proceedings, under the following grounds<sup>114</sup>:

- a) that the finding or outcome imposed was unreasonable; *or*

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<sup>111</sup> Holding the office of constable is to be treated as employment for the purposes of Part 5 of the Equality Act 2010, as provided by section 42 of that Act. In the already cited matter of *P v Commissioner of Police for the Metropolis* [2017] UKSC 65, the Supreme Court also confirmed that Chief Constables would be liable for any discrimination by a police misconduct panel.

<sup>112</sup> It should be noted that the PAT has no powers to make a costs order against an officer losing an appeal, as provided by paragraph 9 of Schedule 6 to the Police Act 1996.

<sup>113</sup> Rule 4 - [The Police Appeals Tribunals Rules 2020 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2020/1000/section/4)

<sup>114</sup> Rule 5 - [The Police Appeals Tribunals Rules 2020 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2020/1000/section/5)

- b) that there is evidence that could not reasonably have been considered at the original meeting which could have materially affected the finding or decision on the outcome; *or*
- c) that there was a breach of the procedures set out in the Performance Regulations, the Complaints and Misconduct Regulations or Part 2 of the Police Reform Act 2002 or unfairness which could have materially affected the finding or decision on the outcome, *or*
- d) that, where the police officer was required to attend the third stage meeting under regulation 30 of the Performance Regulations 2020, the officer should not have been required to attend that meeting as it did not, in accordance with regulation 30(6) or 48(10) of those Regulations, concern unsatisfactory performance or attendance similar to or connected with the unsatisfactory performance or attendance referred to in the final written improvement notice.

## 6.2 Chief Constables' rights of appeal

The circumstances under which a Chief Constable may challenge the decision of a misconduct panel in relation to an officer serving in their force are very different. In the absence of a statutory right of appeal, Chief Constables' only recourse to challenge a decision by a misconduct panel is by way of judicial review.

Some Chief Constables have raised concerns about the significant impact of officers not being dismissed by misconduct panels, where the Chief Constable believes that decision to be unreasonable and lenient. It is understandable that decisions which are, or could be perceived as, unduly lenient could adversely impact 2 of the 3 purposes of the misconduct regime: maintaining public confidence and upholding high standards.

## 6.3 Comparison of appeal rights: judicial review vs PAT

The grounds for appealing to the PAT are relatively broad and allow an officer to challenge the "reasonableness" of a finding or outcome/sanction. Judicial reviews proceedings are different in scope and focus on the lawfulness of a decision or action, though a court may also consider whether a certain decision is unlawful on grounds of irrationality, which is a distinct test with a relatively high threshold<sup>115</sup>.

Whilst there is some overlap in the legal considerations applied by both the PAT and the High Court, the remit and reach of the two is distinct.

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<sup>115</sup> As established in *Associated Provincial Picture Houses Ltd v Wednesbury Corp* [1948] 1 K.B. 223 and copious subsequent judicial decisions.

Furthermore, Chief Constables are also required (together with PCCs) to consider issues of costs in line with their financial responsibilities<sup>116</sup>, and judicial review proceedings can be expected to entail more onerous financial burdens for the force in question than appeals to the PAT.

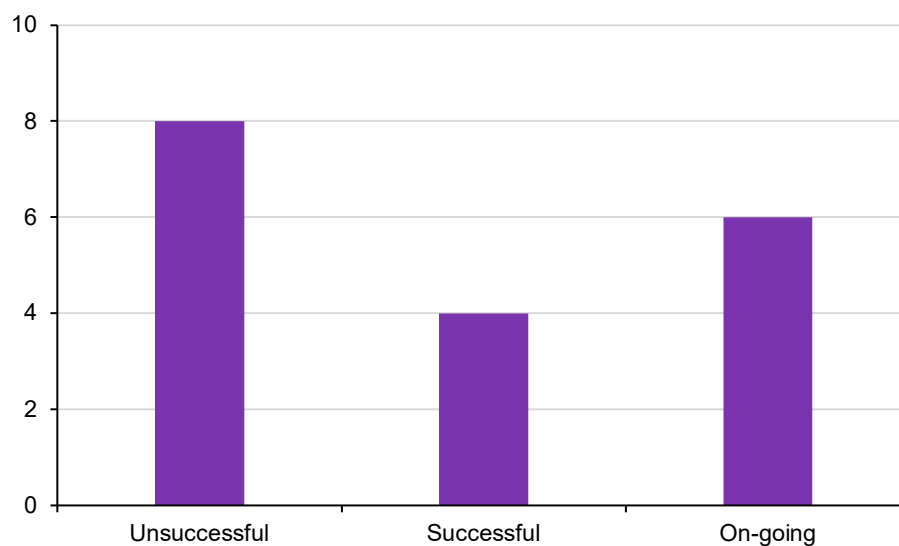
## 6.4 Stakeholder views

In total, responses from 14 stakeholders made explicit reference to available appeal processes with the majority (11) giving clear support for Chief Constables being provided a statutory right of appeal to the PAT. Of the remaining 3 responses, 2 stakeholders did not support such a right of appeal and one stakeholder did not expressly provide an opinion – but did reference the higher costs involved in judicially reviewing decisions. Of those who supported a statutory appeal route, the cost to the public purse was the most commonly provided justification. In addition, one stakeholder urged some caution around the circumstances for any future statutory appeal, so that it could only arise due to “*valid grounds for appeal and not just because a chief officer disagreed with the outcome*”.

## 6.5 Data

Evidence provided to the review shows that only a limited number (18) of judicial review applications have been made on behalf of Chief Constables, in respect of misconduct panel decisions, since PCCs were introduced. This may be influenced by the costs involved in judicial reviews.

**Figure 8: Status of judicial review applications**



<sup>116</sup> [The Policing Protocol Order 2023 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

The Home Office has collected data on appeals to the PAT as a part of this review. As discussed in [chapter 4.4](#) of this report, the overall number of appeals stemming from misconduct proceedings in recent years is generally low. In the year ending 31 March 2022, 7% of all misconduct hearings finalised resulted in an appeal and 2% of all accelerated hearings. There has been a period of decline in the number of appeals since the year ending 31 March 2016, where 23% of hearings and 8% of accelerated hearings finalised resulted in an appeal.

Before an appeal is heard by the PAT, the chair must make an initial decision as to whether there is any real prospect for success, otherwise the appeal is dismissed without being heard<sup>117</sup>. Alternatively, the appellant may also choose to discontinue their appeal. With the exception of the year ending 31 March 2021, there has been an upward trend in the proportion of appeals dismissed by the chair, increasing from 23% in the year ending 31 March 2016 to 70% in the latest year.

Consequently, the proportion of appeals received that were heard has declined over this period from 72% in the year ending 31 March 2016 to 26% in the year ending 31 March 2022. Only 6 appeals to the PAT stemming from a misconduct hearing or accelerated hearing were heard and finalised in the latest year.

With the exception of the year ending 31 March 2019, a majority of appeals heard, are not upheld (i.e. the PAT agrees with the original decision made). This can vary somewhat each year, with 83% of appeals heard in the year ending 31 March 2022 not upheld. Overall, the number of decisions overturned at a PAT is low (on average 6 a year).

There are limitations with the available data, given that information on the timeliness of PATs available to the Home Office is not recorded to a consistent standard. In addition, the review is not aware of the existence of timeliness data relating to judicial reviews in disciplinary cases. Therefore, no comparison has been possible to consider whether allowing Chief Constables a route of appeal to the PAT would have either a positive or negative effect on the overall time taken to hear these cases.

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<sup>117</sup> Rule 15 - [The Police Appeals Tribunals Rules 2020 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

## 6.6 Recommendations

This review makes wider recommendations which are expected to reduce the risk of unduly lenient decision-making. However, providing Chief Constables with a statutory right of appeal to the PAT would nevertheless bring helpful parity to the system. Whilst Chief Constables – or other senior officers – will now chair misconduct hearings, decisions will continue to be made on a majority basis and so the argument for a statutory appeal right for Chief Constables remains valid. This appeal right should be limited to decision at misconduct hearings only and not extended to performance proceedings, where final decisions are made internally, with proceedings chaired by senior officers.

### **Recommendation 11**

Amendments should be made to the Police Act 1996, to provide a statutory right of appeal for Chief Constables to the Police Appeals Tribunal.

The proposed changes to allow Chief Constables to chair misconduct hearings will increase their role in the dismissals process. In parallel, we are considering whether it is necessary to strengthen PCC powers, to ensure that they can better hold the Chief Constables to account in relation to disciplinary outcomes.



# TERM 7: Presumption for disciplinary action

Consider the merits of a presumption for disciplinary action against officers found to have committed a criminal offence whilst serving in the police.

## 7.1 Introduction

Decision-making on imposing disciplinary sanctions is supported by the College of Policing's Guidance on Outcomes in Police Misconduct Proceedings, which was updated in 2022 following broad consultation with the sector. The public are likely to have certain expectations around police officers who commit criminal offences and the guidance makes this clear:

*“It is unacceptable for police officers, who are responsible for enforcing the law, to break the law themselves.”*

It also goes on to explain the serious impact that committing criminal offences will have on public confidence:

*“However, any criminal conviction will be serious and will be likely to have an adverse impact on public confidence in policing.”*

However, despite this guidance, there have been high-profile cases where officers who have committed serious criminal offences have not been dismissed.

In fact, the Commissioner of the MPS, Sir Mark Rowley, recently confirmed that 161 MPS officers have criminal convictions<sup>118</sup>. This included 49 officers convicted of dishonesty or violence offences – 8 of whom committed those offences whilst they were serving police officers. He also confirmed that there were 3 serving MPS officers with convictions for sexual offences.

## 7.2 Vetting arrangements

Rules for serving officers should be in line with candidates wishing to join the police service. The College has sought to address this in its revised Vetting Code of Practice<sup>119</sup>, published in July 2023. The Code includes a rebuttable presumption that a person *“will not be suitable to hold vetting clearance if they have a conviction or caution for a criminal offence”*. This amended the

<sup>118</sup> [Met Police has 161 serving officers with criminal convictions | UK News | Metro News](#)

<sup>119</sup> [Vetting Code of Practice \(college.police.uk\)](#)

previous Code, in which the rebuttable presumption was limited to prospective candidates applying to join the police service.

This is not a blanket approach and factors such as the *“nature and severity of the offence, the person’s age at the time they committed the offence, and the length of time since the offence was committed”* will all weigh against that presumption. Indeed, in its inspection report, published in November 2022<sup>120</sup>, HMICFRS supported the principle that there will some occasions where appropriate exceptions may apply:

*“Vetting units sometimes grant clearance to applicants with criminal convictions, or whose family or friends have convictions, or where other concerning information is held. There can be valid reasons for this.”*

However, the nature of certain convictions means they cannot be considered compatible with the Office of Constable. The revised Code makes this clear, in setting out that vetting clearance for a police officer, special constable or a member of police staff is to be rejected in all cases where either:

- *“offences were committed as an adult or juvenile that resulted in a prison sentence (including custodial, suspended or deferred sentences and sentences served at a young offenders’ institution or community home) [or]*
- *the individual is, or has been, a registered sex offender or is subject to a registration requirement in respect of any other conviction.”*

### 7.3 Other jurisdictions

As set out earlier in this report, there is a distinct difference between police disciplinary arrangements (which can result in dismissal from the organisation) and those in a number of other professional jurisdictions (which relate to individuals’ broader fitness to practise). However, in any event, a decision that a doctor or social worker, for instance, should be “struck off” from the relevant register, means that individual can no longer be employed in that particular profession.

It is clear that some offending is so serious that it makes it impossible for that individual to continue to work in their professional capacity. Legislation currently provides for social workers who are convicted of

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<sup>120</sup> [An inspection of vetting, misconduct, and misogyny in the police service - His Majesty's Inspectorate of Constabulary and Fire & Rescue Services \(HMICFRS\) – Home \(justiceinspectorates.gov.uk\)](https://www.justiceinspectorates.gov.uk/hmicfrs/publications/2022/11/2022-11-01-inspection-report-vetting-misconduct-and-misogyny-in-the-police-service/)

“listed offences” to be automatically removed from their register<sup>121</sup>, meaning they can no longer practise as a social worker. Whilst this position is not widespread across professional jurisdictions, it helps to set a basic expectation, which is equally applicable to policing: police officers who commit serious criminal offences should have no place in the service.

## 7.4 Recommendations

It is crucial that misconduct panels retain discretion so that they can consider the full circumstances of a case. However, given that one of the primary purposes of the misconduct regime is to maintain public confidence in the police, it cannot be right that police officers who are convicted of serious criminal offences are able to remain in policing. The same thresholds which guard against allowing unsuitable candidates into policing *must* equally apply to those currently serving.

It is therefore recommended that the Home Office consults with stakeholders on a list of criminal offences, conviction of which automatically amounts to gross misconduct.

Following conviction of other criminal offences, those chairing proceedings will – like vetting decision-makers – need to weigh up the nature and severity of the officer’s offending. For example, minor traffic offences are unlikely to terminate an officer’s career. But the fundamental presumption should remain, that the individual will be unsuitable to remain an officer, where they have been convicted of a criminal offence.

### **Recommendation 12**

The Home Office should introduce a statutory list of criminal offences, conviction of which amounts to gross misconduct.

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<sup>121</sup> Regulation 26 - [The Social Workers Regulations 2018 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

## TERM 8: Performance system and vetting failure

Review whether the current three-stage performance system is effective at being able to reasonably dismiss officers who demonstrate a serious inability or failure to perform the duties or their rank or role, including where they have failed to maintain their vetting status.

### 8.1 Vetting

In 2017, the College of Policing introduced its first statutory Vetting Code of Practice<sup>122</sup> (issued under Section 39A(5) of the Police Act 1996) and its first authorised professional practice (APP) guidance on vetting. This replaced all previous guidance issued in relation to vetting and set the vetting standards for forces in England and Wales. The Vetting Code of Practice was updated in July 2023, strengthening the standards that forces are expected to adhere to, and making it clear that the expectation is on Chief Constables to ensure vetting standards are maintained within their force. The Code further clarifies that an inability to hold minimum vetting clearance will result in dismissal proceedings and emphasises that vetting clearance will be reviewed following the conclusion of misconduct proceedings which do not result in dismissal. These amendments put processes which were previously only highlighted within the Vetting APP on a statutory footing. The APP, due for update later this year, sets out in detail further considerations and expectations regarding police vetting, including the level of checks required for each vetting level. Broadly speaking, members of the police workforce will be vetted to either Recruit Vetting (RV) level, which is the minimum level required, or Management Vetting (MV) level.

Vetting has come under increasing scrutiny following a number of high-profile cases as well as inspections from HMICFRS, with its November 2022 report<sup>123</sup> detailing inadequacies in how forces were operating. Amongst its findings, cases were found in which the vetting decisions of forces did not reflect the serious nature of the officer's misdemeanours. In some cases, individuals had a history of misconduct but transfers to other forces were accepted anyway, increasing the risk of spreading misbehaviour to other areas of policing. In January 2023, following further concerns which emerged from the case of former MPS officer David Carrick, the Home Secretary asked HMICFRS to conduct a rapid review of forces' responses to its November

<sup>122</sup> [Vetting Code of Practice \(college.police.uk\)](https://college.police.uk)

<sup>123</sup> [An inspection of vetting, misconduct, and misogyny in the police service - His Majesty's Inspectorate of Constabulary and Fire & Rescue Services \(HMICFRS\)](#)

2022 findings. The rapid review was published in May 2023, concluding that some good progress has been made, but that forces needed to continue to improve vetting standards.

At current, the legislation does not set out a requirement for police officers to be granted and to *maintain* vetting clearance in order to remain in force.

### Vetting failure

One particular area of recent concern was whether forces have the ability to remove an officer from service if they are unable to hold the minimum level of vetting clearance. Public confidence in the police is likely to be impacted if officers who cannot hold vetting clearance are given responsibility for exercising powers over communities. The existing vetting APP (2021)<sup>124</sup> suggests that when officers have their clearance withdrawn and suitable alternative employment cannot be identified, and/or the risk cannot be reasonably managed, it may be appropriate to initiate proceedings under the Police (Performance) Regulations 2020. Forces can then consider whether, under unsatisfactory performance proceedings, the officer's failure to maintain vetting clearance constitutes "gross incompetence"<sup>125</sup>.

If an officer is unable to hold vetting clearance, it is likely that they will be severely restricted from carrying out the duties of their rank or role and thus could be considered for dismissal for being "grossly incompetent". The Home Office has not been presented with any evidence of forces using the Police (Performance) Regulations 2020 to remove officers who have failed to maintain their vetting but notes that the MPS have set out their intentions to use this method as part of its 'Operation Assure'.

## 8.2 Stakeholder analysis

Feedback from stakeholders highlighted inconsistencies and uncertainty around suitable mechanisms for removing officers who are unable to hold vetting clearance.

Some stakeholders suggested that a new streamlined mechanism, separate from the Police (Performance) Regulations 2020, should consider removal from service following vetting failure. Others suggested that vetting failure should be considered as a conduct matter and assessed via this route. Staff Associations have made clear, publicly, their concerns about officers' careers

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<sup>124</sup> [APP on Vetting \(college.police.uk\)](https://college.police.uk)

<sup>125</sup> Regulation 4(1) - [The Police \(Performance\) Regulations 2020](#): Gross incompetence is defined as 'a serious inability or serious failure of a police officer to perform the duties of the officer's rank or the role the officer is currently undertaking to a satisfactory standard or level, without taking into account the officer's attendance, to the extent that dismissal would be justified and "grossly incompetent" is to be construed accordingly.'

and wellbeing if officers can be removed from forces for failing vetting without fair and transparent processes and that Chief Constables should be assessed for their compliance under the vetting code, vetting APP and Counter-Corruption APP. Forces who are using the Police (Performance) Regulations 2020 to remove those unable to hold vetting clearance for being 'grossly incompetent' have suggested that it would be useful to clarify the definition of 'gross incompetence' to include a reference to an inability to hold vetting clearance.

Stakeholders have also highlighted the need to address instances in which an officer has not been dismissed following a misconduct hearing but is then unable to hold vetting clearance. Under current APP guidance, it is necessary for a force to review vetting clearance following a misconduct meeting or hearing where the officer has been issued with a written warning or final written warning. Scenarios have arisen where the force is unable to have confidence in an officer to carry out their assigned duties as they have been unsuccessful in dismissing them during misconduct proceedings, but they are also unable to maintain their vetting clearance.

### **8.3 Limitations**

Through stakeholder comments, it is clear that forces are seeking some clarity on the best mechanism to remove an officer who is unable to hold vetting clearance. There was no data submitted to the Home Office on use of the Police (Performance) Regulations 2020 to remove officers for 'gross incompetence' who are unable to hold vetting. The MPS' 'Operation Assure' is still ongoing and it is not yet possible to look at its effectiveness.

### **8.4 Recommendations**

The public rightly expects the police, who wield significant powers as part of their responsibilities to protect our communities, to have the highest standards.

Many jobs require the employee to be granted, and to keep, vetting clearance in order to fulfil their duties and to keep their employment. Given the role that police officers have in society, and in order to carry out their duties, they should be required to hold and maintain their vetting clearance.

There should also be a clear route for forces to be able to remove officers who are unable to hold vetting clearance. However, whilst this route needs to work effectively for forces, it must also protect officers from possible abuses of process. If an officer is not dismissed at a misconduct hearing, a review of their vetting must be conducted in a fair and balanced way. This should also

extend to vetting appeals and should ensure that the views of all parties are taken into consideration, including any effects on public confidence

We have considered whether it would be suitable to make changes to the Performance Regulations or whether it would be more suitable to create a new process. There will be a number of complex areas to work through and we will welcome engagement with all of our policing stakeholders, including Staff Associations, on how best to establish a robust and fair process for removing those who cannot maintain their vetting clearance.

### **Recommendation 13**

Legislation should be proposed to amend the Police Regulations 2003, making it a requirement of the office of constable, to hold and maintain vetting.

### **Recommendation 14**

The Home Office should clearly define the route by which forces are able to remove officers who are unable to hold vetting clearance.

## **8.5 The performance system**

The Police (Performance) Regulations 2020 set out the formal procedure in place to deal with the unsatisfactory performance or attendance of officers. The Regulations are intended to provide a fair and proportionate system for addressing these issues and maintaining a culture of learning and development. This includes where, as the result of progressing through the stages of the performance system, or an act of gross incompetence, an officer should be dismissed due to their unsatisfactory performance. Officers dismissed in this way are included on the police Barred List.

## **8.6 Data**

As part of the review, the Home Office collected data on the use of Stage 3 meetings of the Unsatisfactory Performance Proceedings (UPP) by the 43 police forces in England and Wales. Recording of the use of a Stage 3 meeting is not standardised resulting in variations in how police forces record this data. Not all forces were able to provide data for the period between 22 November 2012 and 31 January 2023. However, 41 forces<sup>126</sup> were able to provide data for the year ending 31 March 2019 onwards, as forces took steps to improve their recording practices. As such, the data presented covers the period 1 April 2018 to 31 January 2023. Further details of the limitations can

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<sup>126</sup> Excludes Leicestershire and Nottinghamshire

be found in **Annex B** of this report. A collection of supplementary data tables have been [published alongside this report](#).

There were 66 Stage 3 meetings between 1 April 2018 and 31 January 2023, based on data from 41 police forces. The number of Stage 3 meetings that occurred has remained relatively low between the year ending March 2018 and 2022. There have been small fluctuations over the past 4 financial years, but the number of Stage 3 meetings remained between 11 and 18.

Of the 41 forces that were able to provide data between 1 April 2018 and 31 January 2023, a total of 25 forces reported not using Stage 3 meetings in this period. This may in part be explained by forces using alternative regulations to dismiss officers, an officer choosing to resign before a Stage 3 meeting goes ahead, or due to poor recording practices, whereby a Stage 3 meeting has taken place, but it has not been appropriately recorded.

Of the 41 forces that were able to provide data between the year ending March 2019 and 2022, an average of 15 officers underwent a Stage 3 meeting each year, equating to 0.01% of police officers in the workforce, or 1 in 10,000 police officers each year<sup>127</sup>.

Of the 41 forces that were able to provide data between 1 April 2018 and 31 March 2022, 2 of those forces were unable to provide data on the referral route. Based on these 39 forces<sup>128</sup>, since the year ending March 2019, the majority (86.4%) of all officers who underwent a Stage 3 meeting were referred following a Stage 2 meeting, rather than a direct referral without a prior Stage 1 or 2 meeting (where the referral route was known).

Of the officers who underwent a Stage 3 meeting between the year ending March 2019 and 2022, the majority (50.9%) were dismissed (where the outcome was known). The proportion of officers who were dismissed following a Stage 3 meeting varied year on year. The dismissal rate was highest in the year ending March 2021 (63.6%) and was lowest in the year ending March 2020 (41.2%).

## Stakeholder views

Stakeholders were in general agreement that the current performance system needs to be streamlined in order to make it more efficient and effective at providing a fair and proportionate system which is adept at dismissing underperforming officers. The current process is lengthy, complex and

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<sup>127</sup> [Police workforce England and Wales statistics - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/police-workforce-england-and-wales-statistics)

<sup>128</sup> Excludes Leicestershire, Merseyside, Nottinghamshire and South Yorkshire



therefore under-used. In particular, a number of stakeholders queried whether the appeal stages following Stage 1 and Stage 2 meetings are required, and whether Stage 2 itself is needed.

Stakeholders acknowledge that the data collection around the performance procedure is poor and, if properly established, would provide helpful assessment of how the system is used including identifying any trends and disproportionality in the system.

One stakeholder raised concerns about “gross incompetence”, dealt with under the Performance Regulations, and “lack of diligence”, dealt with under the Conduct Regulations. There is some confusion on the boundary between these terms which should be clarified.

## **Recommendations**

Views from stakeholders and the inconsistency in the data provided to this review indicate that there is a need for reform of the performance system. This should be done in a way which allows a fair and proportionate process, which is able to identify under-performing officers and, where there is no improvement in their performance, effectively dismiss them. The new process must be timely and clear so that forces are confident to use it.

These changes should consider the existing structure of the system, and whether the effectiveness of the process could be improved by condensing the current stages. As part of that work, the overall applicable timescales should be reviewed, to ensure that the period of time within which officers have to make demonstrable improvement (currently up to 12 months) does not cause unnecessary delays.

In addition, this work should consider the seniority of the officer making relevant decisions. The first 2 stages are chaired by individuals with a close working connection to the officer – the officer’s line manager and the line manager’s supervisor. Furthermore, the decision on whether an officer is referred to a third stage meeting – at which they could be dismissed – is made by their line manager. This is a critical decision and so it should be explored whether such decisions should be made by other officers at a more senior level to improve the fairness, impartiality and robustness of decisions.

To accompany this, Home Office statutory guidance should also be updated to reflect these changes and the additional concerns raised by stakeholders.

**Recommendation 15**

The Home Office should streamline the Performance Regulations to create a simpler and more effective process, underpinned by Home Office guidance.

The review also found that the data capture in this area is inconsistent among forces and does not present a full picture of its current use. In order to allow a more comprehensive evidence-base for policy thinking in the future, Chief Constables should ensure that robust data capture and collection around the use of the Performance Regulations is in place.

**Recommendation 16**

Chief Constables should ensure robust data systems are in place for the collection of data relating to the performance system.

# OTHER CONSIDERATIONS: Former officers and special constables

## 9.1 Introduction

In considering the processes under which officers are dismissed, there are a small number of relevant matters which fall outside of the Terms of Reference, but that nevertheless require strengthening. These relate to the processes in place for both former police officers and special constables.

Special constables are volunteers but hold the same warranted powers as regular police officers. Whilst it may vary by force, they are usually expected to volunteer at least 16 hours per month. Given the fact they possess the same warranted powers, special constables are dealt with under the same misconduct framework as regular police officers. A senior officer told us that *“this is very often perceived as being disproportionate”* and recommended an expedited system which would be *“more proportionate for all concerned and far less burdensome on the public purse”*.

In December 2017, the Government introduced new legislation<sup>129</sup> which now allows misconduct proceedings to be brought against former police officers and former special constables. Proceedings can be brought in certain circumstances and are only permissible where the officer has a case to answer for gross misconduct. In most cases, this is purposefully limited to cases where either:

- a) The person ceased to be a police officer **after** the allegation was made; or
- b) The person ceased to be a police officer **before** the allegation was made, and the period between those events does not exceed 12 months.

In cases where the period set out in condition B exceeds 12 months, proceedings can only be brought where the Director General of the IOPC makes what is known as a “special determination”<sup>130</sup>.

These changes coincided with the introduction of the police Barred List<sup>131</sup>. All those who are dismissed from policing are placed on the Barred List, preventing them from re-joining policing bodies again in the future. Any former

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<sup>129</sup> [The Police \(Conduct, Complaints and Misconduct and Appeal Tribunal\) \(Amendment\) Regulations 2017 \(legislation.gov.uk\)](#)

<sup>130</sup> Regulation 4A(2) – [The Police \(Conduct\) Regulations 2020 \(legislation.gov.uk\)](#)

<sup>131</sup> [Barred list | College of Policing](#)

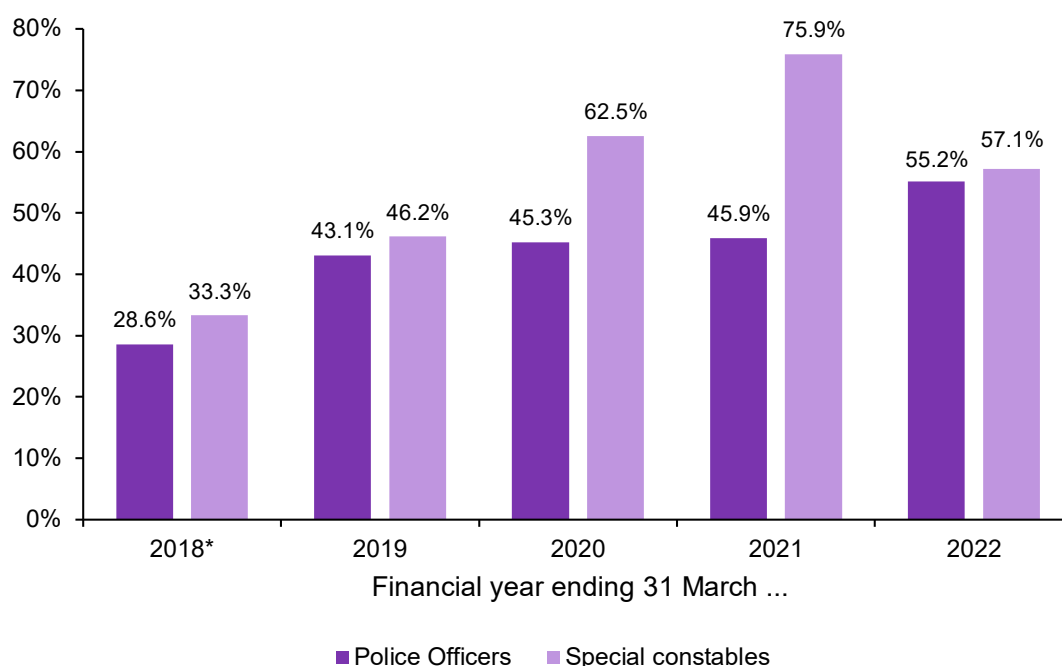
officer (or special constable) who *would have been* dismissed, had they still been a member of that police force, is still placed on the Barred List.

## 9.2 Data analysis

As of March 2022, there were 8,545 special constables serving in England and Wales<sup>132</sup>. In the year 2021/22, 35 special constables were dismissed and placed on the Barred List<sup>133</sup>. This represents 0.4% of the special constabulary workforce - twice the level of regular police officers (0.2%). This position has been broadly similar for the past 3 years.

The number of special constables and police officers who resign or retire prior to dismissal is increasingly high. This means that force PSDs are spending considerable time and money bringing disciplinary proceedings against former police officers and former special constables. In fact, the number of special constables who had already left the force by the time they were dismissed, has outweighed the number still serving in each of past 3 years.

**Figure 9: Percentage of those dismissed from policing, who resigned / retired prior to dismissal**



\* the year ending 31 March 2018 only covers the period 15 December 2017 to 31 March 2018

<sup>132</sup> [Police workforce England and Wales statistics - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/police-workforce-england-and-wales-statistics)

<sup>133</sup> [Police dismissals \(Home Office forces\) 2021 to 2022 | College of Policing](https://www.collegeofpolicing.org.uk/news-and-press/news/2022/04/police-dismissals-home-office-forces-2021-to-2022)

### 9.3 Recommendations

The introduction of provisions allowing the bringing of proceedings in respect of former police officers was an important one. It ensured accountability and that no officer could resign or retire to avoid facing justice for serious misconduct. It also removed the requirement for police forces to have to continue to pay officers, who would have otherwise left policing of their own free will.

But this review has rightly focussed on whether there is appropriate balance in the system and that equally applies to the processes in place for former officers. A force told us that *“not all individuals participate in the process. Those that do, do so with little or no jeopardy to themselves”* – indeed misconduct hearings in respect of former officers are often at least in-part to ensure that the individual is placed on the Barred List. This is an expensive, time-consuming process which draws forces’ resources away from dealing with those individuals who are still serving.

It is therefore recommended that all cases brought against former police officers (including former special constables) should be heard by Chief Constables (or delegated senior officers) at accelerated hearings. Where individuals disagree, they should be given the opportunity to “opt out”, and for their case to be heard at a misconduct hearing before a misconduct panel.

#### **Recommendation 17**

Legislation should be proposed to introduce a presumption that all cases brought in respect of former police officers (including special constables) are heard at accelerated hearings – unless the individual specifically requests a hearing before a misconduct panel.

The data on special constables, set out earlier in this section, is clear in that, based on overall headcount, special constables are proportionately more likely to be dismissed than regular police officers. Whilst there are valid arguments for introducing a more expedited system to deal with special constables, it is crucial that – given their warranted powers – they are equally subject to appropriate levels of accountability as part of a fair hearing process. It is also important to consider whether a separate, expedited system would be proportionate. In 2021/22, of the 35 special constables dismissed and placed on the Barred List, only 15 remained serving at the time of dismissal. 20 of the special constables dismissed had already resigned and these individuals could therefore be dealt with under the reformed procedures set out above. We do not therefore recommend any further change to misconduct procedures.

Currently however, special constables are not subject to Regulation 13, meaning that there is no clear statutory or regulatory process to remove those individuals who are under-performing or commit misconduct during their probationary periods – despite the fact they are statistically more likely than regular officers to be dismissed later in service. As with regular police officers, it is crucial that, during their probationary period, special constables demonstrate that they have the necessary attributes to become an “*efficient or well-conducted constable*”<sup>134</sup>. It is therefore recommended that legislative options are reviewed to consider allowing the discharge of probationary officers to be extended to special constables.

### **Recommendation 18**

Home Office to consider legislative options to include special constables within Regulation 13 of the Police Regulations 2003.

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<sup>134</sup> Regulation 13(1) - [The Police Regulations 2003 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

## ANNEX A – List of recommendations

### **Recommendation 1**

The College of Policing should consider developing an accreditation programme for professional standards investigators.

### **Recommendation 2**

To give greater clarity and context to misconduct and dismissals data, and reassure the public about its use, the Government, with the policing sector, will consider the way data is reported, where there are possible gaps, and how to improve collection to enable more meaningful data across England and Wales

### **Recommendation 3**

The Home Office, with policing partners, should carry out multi-variate analysis to identify any disproportionality related to intersectional characteristics.

### **Recommendation 4**

The Police (Conduct) Regulations 2020 – and associated guidance – should be amended to provide a rebuttable presumption of dismissal where gross misconduct is proven, unless extenuating or mitigating circumstances apply.

### **Recommendation 5**

Misconduct hearing panels should now be chaired by senior police officers, supported by a legally-qualified panel member and independent panel member.

### **Recommendation 6**

Legislation should be proposed to allow Chief Constables to delegate all disciplinary responsibilities – including dismissal – to other senior officers.

### **Recommendation 7**

The Home Office should draft more comprehensive guidance on the use of Regulation 13 to assist forces with its consistent use.

### **Recommendation 8**

Legislation should be proposed to allow the delegation of Regulation 13 powers from Chief Constables to other senior officers.

**Recommendation 9**

All Chief Constables should ensure that they have a clear policy in place to deal with matters under Regulation 13.

**Recommendation 10**

All Chief Constables should ensure that there are data systems in place to accurately capture Regulation 13 data.

**Recommendation 11**

Amendments should be made to the Police Act 1996, to provide a statutory right of appeal for Chief Constables to the Police Appeals Tribunal.

**Recommendation 12**

The Home Office should introduce a statutory list of criminal offences, conviction of which amounts to gross misconduct.

**Recommendation 13**

Legislation should be proposed to amend the Police Regulations 2003, making it a requirement of the office of constable, to hold and maintain vetting.

**Recommendation 14**

The Home Office should clearly define the route by which forces are able to remove officers who are unable to hold vetting clearance.

**Recommendation 15**

The Home Office should streamline the Performance Regulations to create a simpler and more effective process, underpinned by Home Office guidance.

**Recommendation 16**

Chief Constables should ensure robust data systems are in place for the collection of data relating to the performance system.

**Recommendation 17**

Legislation should be proposed to introduce a presumption that all cases brought in respect of former police officers (including special constables) are heard at accelerated hearings – unless the individual specifically requests a hearing before a misconduct panel.



**Recommendation 18**

Home Office to consider legislative options to include special constables within Regulation 13 of the Police Regulations 2003.

# ANNEX B – Data analysis

## Introduction

In addition to collecting evidence from the policing sector through a call for evidence and a review of existing literature concerning police officer dismissals, Home Office analysts have undertaken a national data collection to support this review. Working with the 43 territorial police forces in England and Wales, data on police officer dismissals under the Police (Conduct) Regulations, the Police (Performance) Regulations and Regulation 13 of the Police Regulations 2003 were collected.

The Home Office collected data for the period between 22 November 2012, when the Police (Conduct) Regulations and Police (Performance) Regulations were introduced, and 31 January 2023, the last full month before the data collection began.

## Dismissals under the Police (Conduct) Regulations and subsequent appeals under the Police Appeals Tribunals Rules

### Data source

All data referred to in this section are obtained from Centurion, an operational tool for the recording and processing of professional standards data within police forces, used by each of the 43 territorial police forces in England and Wales.

Data has been extracted from Centurion individually by each of the 43 territorial police force using a series of bespoke reports created for this review, which ensures consistent data extraction between forces.

### Scope of the data collected and analysis

Centurion is a live operational tool, and therefore subject to regular updates and revisions to data. Our data collection has therefore focussed only on cases where the entire case has been finalised. Where data has been disaggregated by financial year, this is based on the date at which the entire case was finalised. A case will only be considered finalised on Centurion, when an outcome has been given for each individual allegation (which may include multiple officers) and any subsequent appeals have been resolved.

There have been a number of key changes to the legislation surrounding police conduct and complaints over recent years. The Police (Conduct) Regulations 2012 and Police (Complaints) Regulations 2012 were introduced from 22 November 2012. These superseded the Police (Conduct) Regulations 2008 and Police (Complaint) Regulations 2008, with all new cases received on or after 22 November 2012 handled under the 2012 regulations.

Similarly, the regulations were again updated with the introduction of the Police (Conduct) Regulations 2020 and Police (Complaint) Regulations 2020, with all cases received on or after 1 February 2020 handled under the 2020 regulations. As a part of this review, only cases handled under the 2012 or 2020 regulations have been included (and as such no data were collected on cases handled under 2008 regulations).

Data were collected on cases finalised between 22 November 2012 and 31 January 2023, the last full calendar month at the point the data collection began.

Unless stated otherwise, all analysis includes both police officers and special constables and does not include members of police staff, who are governed separately by misconduct procedures adopted locally by forces.

Whilst all 43 territorial police forces now use Centurion to record professional standards cases, during data collection Greater Manchester Police (GMP) highlighted that they have only used Centurion to record cases received since February 2020. We have been unable to collect equivalent data from GMP legacy systems, and therefore GMP data has been excluded from all analysis where trends have been compared before and after February 2020. Where analysis focuses on trends since February 2020 only, GMP have been included. Police workforce statistics published by the Home Office show that as at 31 March 2022, police officers (including special constables) in GMP account for 5% of the total headcount across the 43 territorial police forces.

As the subject of this review is specifically related to the dismissal of officers, we have focussed our analysis on cases where at least one officer has been referred to a hearing or accelerated hearing, the formal misconduct proceedings where dismissal is a possible outcome. We have also included high-level analysis of the number of officers referred to misconduct meetings, to give a full picture of all formal proceedings, though officers cannot be dismissed at these meetings.

The data includes formal proceedings that originated from police complaints, conduct matters and recordable conduct matters (see the [user guide to Home](#)

[Office Police Misconduct Statistics](#) for full definitions), though does not consider these separately. We have not carried out any analysis on the stages prior to formal proceedings, as set out in the Police (Conduct) Regulations or Police (Complaints and Misconduct) Regulations as part of this review.

### **How are proceedings and dismissals counted?**

A single case (originating from either a police complaint, conduct matter or recordable conduct matter) may include multiple allegations, involving multiple police officers or specials. Each allegation may result in a different outcome for each officer involved.

Proceedings (and subsequent outcomes) are therefore counted at an individual level, where each individual subject to a proceeding is counted once per proceeding.

#### **Example 1**

A complaint is received concerning three officers (Officers A, B and C). This complaint includes 2 distinct allegations, with Allegation 1 involving Officer A only and Allegation 2 involving Officer A, B and C. Officer A is referred to a misconduct hearing for both Allegations 1 and 2, Officer B is referred to a misconduct hearing for Allegation 2 and Officer C is found is not referred to formal misconduct proceedings. Once finalised this would be counted as 2 officers (A and B) referred to a hearing.

If the allegations against an officer amount to multiple distinct breaches of the police Standards of Professional Behaviour, an individual may receive multiple misconduct finding levels and outcomes. As we are counting individuals, the most severe finding level or outcome has been considered in our analysis.

Returning to the above example, if the misconduct hearing has found that Officer A has committed gross misconduct in relation to Allegation 1 and determined the officer should be dismissed, however no misconduct has been proven with regards to Allegation 2 resulting in no further action. In this instance this would be counted as 1 finding of gross misconduct and 1 dismissal (the most severe sanction received).

If an officer is involved in multiple distinct proceedings, they will be counted for each proceeding they are involved in.

For analysis of IOPC allegation type, a slightly different counting method has been adopted. This is because multiple allegations, spanning multiple IOPC allegation type categories may lead to an outcome or misconduct finding.

## Example 2

An officer is involved in a case with two distinct allegations. Allegation 1 relates to 'discreditable conduct' and Allegation 2 relates to 'discriminatory behaviour'. The officer is found to have committed gross misconduct for both allegations and is subsequently dismissed. This is recorded as:

- 1 gross misconduct finding and dismissal involving at least one allegation of discreditable conduct; **and**
- 1 gross misconduct finding and dismissal involving at least one allegation of discriminatory behaviour

As such the total number of dismissals by allegation type is greater than the total number of dismissals. Due to data recording limitations, it is not possible to determine which (or if both) of these two allegations specifically drove the decision to dismiss the officer.

## Limitations

### Exclusion of 2008 regulations data

As mentioned in the scope section, only misconduct proceedings heard under the Police (Conduct) Regulations 2012 and Police (Conduct) Regulations 2020 are included in this analysis.

Although all new cases received from 22 November 2012 are included in the data, there can be a significant time delay between a case first being received and the case being finalised. In particularly complex cases or cases where the outcome is appealed, a case may be finalised multiple years after it was first received.

Therefore, while data was collected as a part of this review from 22 November 2012, the exclusion of Police (Conduct) Regulations 2008 data means that the initial few years of Police (Conduct) Regulations 2012 data is not a full reflection of the number of cases finalised during this period. Furthermore, the cases which were finalised under the Police (Conduct) Regulations 2012 during this period are more likely to relate to less complex cases, introducing a bias into any analysis of trends during this period.

In order to account for this, we have started all analysis from the financial year ending 31 March 2016 as by this point, the majority of cases handled under the Police (Conduct) Regulations 2008 would be finalised. It should be acknowledged that a small number of 2008 regulations cases may have still been open after this date.

## **Determining who chaired a hearing**

Legally Qualified Chairs (LQCs) were introduced to chair misconduct hearing panels from January 2016 onwards, with hearings prior to this chaired by senior officers. This change was made from 1 January 2016 onwards, however, where an officer had already been given notice of a misconduct hearing prior to 1 January, these continue to be heard under the senior officer-led system.

The data available to the Home Office from Centurion does not include information on when notice of a hearing was given. It is therefore not possible to reliably determine which cases finalised after 1 January 2016 were heard by a LQC-led panel and which were heard by a senior officer-led panel. Based on hearing date, we are able to determine that the majority of misconduct hearings in the financial year ending 31 March 2016 were chaired by LQCs.

Direct comparisons between decisions made by at senior officer-led and LQC-led misconduct hearings have therefore not been possible with the data available.

## **Missing misconduct finding levels**

Following consideration of the evidence at a misconduct hearing, the panel must determine a misconduct finding level which could be gross misconduct, misconduct or no misconduct. A dismissal can only occur where sufficient evidence of gross misconduct has been presented, where multiple unconnected findings of misconduct have been found against the same officer or where there is a finding of misconduct but the officer had a final written warning in place at the time of the severity assessment.

Misconduct finding levels have only been recorded on Centurion since the financial year ending 31 March 2017, and due to incomplete recording during the initial years, can only be reliably used from the financial year ending 31 March 2020 onwards. All analysis disaggregated by misconduct finding level therefore includes cases finalised from 1 April 2019 onwards only.

Caution should therefore be taken when comparing dismissals rates between years as it is not possible to separate the effect of year-on-year variation in misconduct finding level decisions from the sanction decision.

For example, an increase in dismissals rate may be driven by either (or combination of) an increase in the proportion of officers found to have committed gross misconduct or by less lenient sanctions once gross misconduct has been determined.

This distinction is particularly important as other factors such as year-on-year variation in the severity of cases heard at hearings or the quality of evidence collected during the investigation may impact trends in gross misconduct finding levels and therefore dismissal rates.

From 2020 onwards, we are able to analyse the outcome by misconduct finding level, giving a fairer measure of leniency in outcome where a defined threshold of misconduct has been consistently met.

### **Frequent changes to legislation**

There have been a number of significant changes to the legislation surrounding the misconduct system, specifically in 2012 and 2020. Additionally further changes occurred in 2016 with the introduction of LQCs, as mentioned previously in this section.

In October 2017, the College of Policing introduced its Guidance on Outcomes in Police Misconduct Proceedings, which was further updated in 2022.

Further changes were implemented in December 2017 when the requirement for officers under investigation to seek consent from the Appropriate Authority to resign or retire was removed and hearings involving former officers were introduced. This change coincided with the introduction of the Barred List.

Extreme caution therefore must be taken when making year-on-year comparisons, particularly since there can be a time delay between changes to legislation and any affects to be seen due to the time taken to finalise a case. New processes and regulations can also take some time to “bed in” to working cultures and recording systems. Direct causal links should therefore not be made between changes in trends and specific changes to regulations and processes.

### **Small numbers when considering minority groups**

As part of this review data have been collected on the protected characteristics (age, sex and ethnicity) and length of service of officers involved in hearings and accelerated hearings. When comparing minority groups, particular caution should be taken due to the relatively low number of cases involving such officers.

For example, the white group makes up around 92% of all officers in England and Wales as at 31 March 2022. As such, the volume of officers from minority groups referred to hearings is comparatively low each year.

Because of this, large differences between groups may equate to a small number of cases. For example, in the year ending 31 March 2016, there were just 33 ethnic minority (excluding white minorities) officers referred to hearing or accelerated hearing. This compares with 295 white officers. Our analysis indicates that of these, 64% of ethnic minority officers and 67% of white officers were dismissed. This 3 percentage point difference equates to the outcome of a single ethnic minority officer.

Our analysis has not therefore considered outcomes of hearings and accelerated (previously special case) hearings separately.

In some of our analysis, we have grouped multiple years together in order to reduce the effect of these small number of cases. However, it should be noted that due to reasons mentioned previously in this section, frequent changes to the misconduct system may impact these numbers.

### **Incomplete fields in Centurion**

Unknown or incomplete responses were identified whilst quality assuring the data, which is not unusual for a large operational and administrative dataset like Centurion. This includes some information on protected characteristics (particularly ethnicity where 7.6% of officers did not have an ethnicity recorded) as well as the outcome for some cases (0.7% of outcomes at hearings were unknown).

All percentages exclude unknowns from their calculations, however full data including unknowns is published in the accompanying data tables.

The Home Office has published information on the number of misconduct proceedings since the financial year ending 31 March 2016. Through increased public scrutiny and collaborative working within policing, there have been improvements to data recording and data quality, and as such more recent years of data are likely of higher quality.

Further information about ongoing improvements to data quality in Centurion are outlined in the [user guide accompanying the police misconduct statistics](#).



## Comparisons as a proportion of the overall workforce

Our analysis uses published police workforce data to compare rates of officers referred to misconduct proceedings as a proportion of all officers in England and Wales. For example, for the financial year ending 31 March 2022, we have divided the number of cases finalised in that year by the number of officers (including special constables) at the end of the previous year (as at 31 March 2021). Whilst this provides greater context on the scale of police misconduct, some caution should be taken as the cases finalised will include some cases where the officer has since resigned, including before the end of the previous financial year.

### Data tables

[An accompanying data set](#) has been published alongside this report providing tables summarising all of the analysis contained in this report including:

- Number of cases referred to proceedings
- Outcome of hearings and accelerated hearings
- Misconduct finding levels of hearings and accelerated hearings
- Number and outcome of hearings and accelerated hearings by sex
- Number and outcome of hearings and accelerated hearings by ethnicity
- Number and outcome of hearings and accelerated hearings by age
- Number and outcome of hearings and accelerated hearings by length of service
- Number and outcome of appeals

### Other sources of information

There are a number of existing statistical publications which include information on police officer dismissals, the wider police discipline system and police complaints. Comparisons between the analysis presented in this review and these existing sources of information should not be made for the reasons listed.

### Barred List numbers report

The College of Policing publish an annual report on officers, special constables and police staff added to the Barred List. This includes officers dismissed under both the conduct and performance regulations. Information is disaggregated by Police Force Area (PFA) and by whether the individual was still serving in the force at the point of dismissal. This is also broken down by rank as well as reason for dismissal (by Standards of Professional Behaviour breach types).

[The latest report](#) covers the year ending 31 March 2022. The data source for this report differs from those used in this review, comparisons with the Barred List report should therefore be made with caution.

### **Police Misconduct England and Wales statistics**

[Since the financial year ending 31 March 2021, the Home Office have published a stand alone statistical series on police misconduct.](#) This publication covers information on police complaint, conduct and recordable conduct allegations made against officers and staff. This includes the number of allegations which are referred to formal misconduct proceedings and the subsequent outcomes

Whilst data used in these statistics also comes from Centurion, proceedings and outcomes are counted on a different basis to the method used in this review as they are counted at an allegation level rather than the individual level used in this review. Direct comparisons therefore cannot be made between these two data sources. [Further information on counting conventions and scope of these statistics can be found in the user guide accompanying the statistics.](#)

### **Police Workforce statistics**

Prior to the creation of the standalone series on police misconduct, the Home Office published annual information on the volume and outcome of individuals referred to formal misconduct proceedings as [an annex to the September edition of Police Workforce England and Wales statistics](#). These covered the financial years from the year ending 31 March 2016 to the year ending 31 March 2020.

This publication did not include information on proceedings involving officers who are no longer serving and is therefore not directly comparable with the data presented in this review.

### **IOPC Complaint statistics**

[The IOPC publish annual statistics on the volume of complaints made against individuals serving in the police.](#) The statistics include information on the number of complaint allegations referred to formal misconduct proceedings, however does not include information on the number of individuals dismissed. These statistics focus on complaints only (so do not include internal conduct matters or recordable conduct matters) and are therefore not comparable with the analysis carried out for this review.

## Dismissals under the Police (Performance) Regulations

### About this data

As part of the Home Office's internal review of police dismissals, the 43 territorial police forces in England and Wales were asked to provide information on the use of the Stage 3 meetings of the Unsatisfactory Performance Proceedings (UPP) of the Police (Performance) Regulations<sup>135</sup>.

This data covered the period between 22 November 2012, when the Police (Performance) Regulations originally came into force, and 31 January 2023, the last full month before data was collected, for police officers and special constables who underwent a Stage 3 meeting. This data do not cover instances where an officer or special constable were referred to a Stage 3 meeting, but it did not go ahead.

This data covers the number of Stage 3 meetings that have occurred, therefore if an officer has been to more than one Stage 3 meeting, this will be included in the data. As such, the data should not be used to infer the total number of individuals who attended a Stage 3 meeting.

As part of the review, information was collected on whether an officer was referred directly to a Stage 3 meeting, or referred following a Stage 1 or 2 meeting, as well as the outcome of the Stage 3 meeting. Police forces were asked to provide the primary outcome; therefore, it is possible that this data is an undercount of certain outcomes where it has been recorded and counted under a more serious outcome.

### Limitations

This is the first time the Home Office has collected data on the use of Stage 3 meetings. Ordinarily, standards for the collection of routine data would be agreed between Home Office analysts, policy officials, and police force representatives at the 'Police Data Requirement User Group'. As this data collection was part of the rapid review, there was less time to receive feedback from police forces on the feasibility of completing the return. As such, some forces reported struggling to provide the data in the format requested by the Home Office which has led to data quality issues.

Given the recording of Stage 3 meetings is not standardised, it can lead to differences in recording practices between forces. This means comparisons between police forces is not advised, and data is therefore presented at a

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<sup>135</sup> [The Police \(Performance\) Regulations 2020 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

national level only. In addition, the data was requested for a long time period, and it is therefore likely recording practices have changes within a force over time. Several forces reported that the formal recording of Stage 3 meetings only began in recent years, therefore the completeness of data for earlier years was low; and when provided for earlier years some forces expressed concerns over the accuracy of the figures. As such, any indication of trends should be treated with caution as it may in part be caused by improved recording practices by police forces.

The Home Office requested data for the period between 22 November 2012 and 31 January 2023, however not all police forces were able to provide data for the full period requested. Most of the forces unable to provide data for the period requested struggled to provide data for the years prior to 2018. This is likely attributed to poor recording practices in the force, or an inability to find the data during the manual trawl of their systems. As such, the Home Office chose to present data for 1 April 2018 onwards as this allows for the inclusion of 41 police forces allowing for a more representative picture.

Finally, the data collected only covers police officers and special constables who attended a Stage 3 meeting. It does not include officers or special constables who were invited to attend a Stage 3 meeting that subsequently did not go ahead. For example, if an officer was invited to a Stage 3 meeting but chose to resign prior to this meeting they would not be included in these statistics. Therefore, this data should not be used to infer the number of police officers and special constables asked to attend a Stage 3 meeting.

## Dismissals under Regulation 13 of the Police Regulations 2003

### About this data

As part of the Home Office's internal review of police dismissals, the 43 territorial police forces in England and Wales were asked to provide information on the use of Regulation 13 of the Police Regulations 2003<sup>136</sup>.

This data covered the period between 22 November 2012 and 31 January 2023, for probationary police officers who had Regulation 13 processes initiated against them. Probationary police officers include all new police officers of the rank of constable, all police officers who leave the police service and subsequently re-join, and direct entrant superintendents and inspectors. This data does not cover instances where a probationary officer was referred to Regulation 13 processes, but it did not go ahead.

If an officer has been through the Regulation 13 process more than once, this will be reflected in the data, therefore the data should not be used to infer the total number of individuals who underwent Regulation 13 processes.

As part of the review, information was collected on the outcome following a Regulation 13 process, and the reason for the Regulation 13 process being initiated against an officer (for either performance or misconduct matters). Police forces were asked to provide the primary outcome and reason; therefore, it is possible that this data is an undercount of certain outcomes where it has been recorded and counted under a more serious outcome.

### Limitations

This is the first time the Home Office has collected data on the use of Regulation 13. Ordinarily, standards for the collection of routine data would be agreed between Home Office analysts, policy officials, and police force representatives at the 'Police Data Requirement User Group'. As this data collection was part of a rapid review, less time was spent receiving feedback from police forces on the feasibility of completing the return. As such, some forces have struggled to provide the data in the format the Home Office requested.

As the recording process for the use of Regulation 13 has not been standardised it can lead to variations in recording between forces, and within forces over time. This means comparisons between police forces is not

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<sup>136</sup> [Regulation 13 of the Police Regulations 2003](#)

advised, and data is therefore presented at a national level only. Several forces stated that the process they use against under-performing probationary police officers had several stages. These forces stated that they do not consider lower-level stages to be a formal Regulation 13 process. Therefore, our data may miss instances where an officer has been pulled up for performance or attendance issues but dealt with at lower stages.

The Home Office requested data for the period between 22 November 2012 and 31 January 2023 but not all forces could provide a full dataset for this period. The Home Office has chosen to present data for 1 April 2018 to 31 January 2023 to allow for data from 39 police forces to be included. Furthermore, several forces only began the formal recording of Regulation 13 processes in recent years, therefore the completeness of data for earlier years was low; and when provided for earlier years some forces expressed concerns over the accuracy of the figures. As such, any indication of trends should be treated with caution as any apparent increases may in part be caused by improved recording practices by police forces.