



To: Business Coordination Board

From: Chief Constable and Acting Chief Executive

Date: 11 February 2021

**HER MAJESTY'S INSPECTORATE OF CONSTABULARY AND FIRE & RESCUE SERVICES ET AL:
REPORT ON LIBERTY AND SOUTHALL BLACK SISTERS' SUPER-COMPLAINT ON POLICING AND
IMMIGRATION STATUS**

1. Purpose

1.1 The purpose of this report is to provide the Business Coordination Board (the "Board") with an overview of the recently published Her Majesty's Inspectorate of Constabulary and Fire & Rescue (HMICFRS), College of Policing (CoP), and the Independent Office for Police Conduct (IOPC) super-complaint report about the treatment of vulnerable victims and witnesses of crime with insecure immigration status and details of how Cambridgeshire Constabulary (the "Constabulary") and the Acting Police and Crime Commissioner (the "Acting Commissioner") intend to respond to the recommendations made in this joint report titled 'Safe to Share?'

2. Recommendation

2.1 The Board is asked to note the report and that the Constabulary are to provide an update to HMICFRS on progress within six months in response to the specific recommendations directed at Chief Constables and Police and Crime Commissioners. HMICFRS recommendations can be found in Appendix 1.

2.2 The Board may wish to note that the recommendations (in Appendix 1) are made under the Complaint legislation and not Inspection legislation and therefore there is no requirement for the Acting Commissioner to respond to the recommendations under section 55(5) of the Police Act 1996.

3. Background

- 3.1 Super complaints provide a voice for designated bodies to raise concerns on behalf of the public about patterns or trends in policing that are, or appear to be, significantly harming the interests of the public.
- 3.2 Liberty and Southall Black Sisters put forward this super complaint about two features of policing:
- The police passing victim and witness data to the Home Office for immigration enforcement purposes; and
 - The operation of and/or perception of a culture of police prioritising immigration enforcement over the investigation of crime and safeguarding.
- 3.3 They say that these features cause significant harm to the interests of the public as they deter victims and witnesses with unsettled immigration status from engaging with the police. This means victims in highly vulnerable circumstances as a result of domestic abuse or modern slavery and human trafficking are denied justice. Abusers use police involvement as a threat rather than a source of protection.
- 3.4 HMICFRS, the College of Policing and the Independent Office for Police Conduct (IOPC) are responsible for assessing, investigating and reporting on police super complaints. Their collective final report recommended a review of the law and policy in this area to provide clarity to police on their priorities. For victims of domestic abuse they recommended a separation between the police response to a victim's report of domestic abuse and the handling of their immigration status.
- 3.5 The 117-page report included **eight recommendations and three actions**. Of these, three are directed at Chief Constables; two at Police and Crime Commissioners (one jointly with Chief Constables); three at the Home Office (one jointly with the National Police Chiefs' Council (NPCC)) and one to all parties. All three actions are for the College of Policing and HMICFRS. These can be read in full at Appendix 1. A link to the full report is available within the Bibliography.
- 3.6 It is recognised that the Constabulary will be reliant on the College of Policing, Home Office and NPCC to develop national guidance and training materials to respond comprehensively to this report. However, there are a number of actions which can be taken in the shorter term to improve the experience for these vulnerable people.

4. Recommendation

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- 4.2 The Board may wish to note that the recommendations (in Appendix 1) are made under the Complaint legislation and not Inspection legislation and therefore there is no requirement for the Acting Commissioner to respond to the recommendations under section 55(5) of the Police Act 1996.

BIBLIOGRAPHY

Source Document	'Safe to share?'- Report on Liberty and Southall Black Sisters' super-complaint on policing and immigration status, HMICFRS, College of Policing, and Independent Office for Police Conduct, December 2020 https://www.justiceinspectors.gov.uk/hmicfrs/publications/liberty-and-southall-black-sisters-super-complaint-on-policing-and-immigration-status/
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HMICFRS Recommendations:

HMICFRS, the College of Policing (CoP), and the Independent Office for Police Conduct (IOPC) have made eight recommendations for Chief Constables and central bodies to consider:

1. Recommendation 1: To Chief Constables –

1.1 As an interim measure, pending the outcome of recommendation 2, where officers only have concerns or doubts about a victim’s immigration status, we recommend that they immediately stop sharing information on domestic abuse victims with Immigration Enforcement. Instead, police officers should link the victim to a third party that can provide advice and assistance, as set out in recommendation 4 (on the creation of safe reporting pathways). This applies where police officers have doubts about a victim’s immigration status, not where they have evidence that an offence has been committed. The CoP will immediately develop guidance for the police service to clarify this aspect of practice.

- This recommendation to stop information sharing only applies to victims of domestic abuse.
- The CoP guidance will also clarify the difference between insecure and uncertain status and immigration offending.
- Any sharing of information should be done in compliance with Information Commissioner’s Office (ICO) guidance.
- ‘Third party’ could include a local or national specialist victim support organisation or another individual/organisation that can act as an intermediary and advocate on the victim’s behalf in communications with Immigration Enforcement – as required.

1.2 **Force Response:** The Constabulary will establish the approach they will take to implement the recommendation addressed to the Chief Constable and provide an update to HMICFRS within six months. However, whilst we await CoP guidance as detailed above, the Constabulary will immediately initiate an internal communications strand as interim best practice safeguarding measures. Simply put, this will direct that only where a victim of a substantive domestic abuse (DA) offence is clearly *known to have committed an immigration offence* should there be any information passed to Immigration Enforcement by reporting officers. Where officers simply, *have doubts about a DA victim’s immigration status*, as indicated above, they will be directed to consult and inform 3rd sector partners; this will ensure that the overarching principle of this recommendation is met, namely that victims of DA within Cambridgeshire access the full spectrum of criminal justice and support facilities as an absolute priority over any consideration of suspected immigration matters. The Constabulary has good third sector reporting and support pathways via the Victim & Witness Hub which has dedicated staff for migrant victim support. In addition, the Constabulary has extensive experience and partnership links around migrant workers and immigration status through dedicated modern slavery operations such as Op Pheasant.

2. Recommendation 2: To the Home Office –

- 2.1 Review the legal framework and policy underpinning the matters raised in this super-complaint with the aim of providing clarification to the police service, other public services and immigration authorities on priorities regarding all migrant victims and witnesses of crime with insecure immigration status.
- 2.2 The review should address the wider matters of public policy raised in this super-complaint as well as those relating to policing and DA. It should include consideration of the interim measure outlined in recommendation 1, associated guidance and further consideration of a mechanism for establishing a firewall between police and immigration enforcement services for all migrant victims of crime with insecure immigration status. It should determine a working definition of a firewall in this context with reference to the conclusions of this report, international examples of such practice and any relevant academic research. The review should identify the correct basis on which any proposed firewall should be implemented.
- 2.3 The effect of the review should be to establish safe reporting mechanisms for all migrant victims and witnesses, including those with insecure immigration status, in accessing the police service. The review should be conducted in consultation with victim and survivor representative groups, practitioners and other interested parties. The Home Office should publish a report that sets out its considerations and conclusions, and includes an equality impact assessment, within six months of the date of publication of this super-complaint report.
- 2.4 **Force response:** This recommendation is addressed to the Home Office. The Constabulary will await further information.

3. Recommendation 3: To the Home Office and the National Police Chiefs' Council –

- 3.1 With the objective of preventing harm to the public interest, develop a safeguarding protocol between the Home Office and the police service to guide responses to all migrant victims and witnesses of crime by the police service, the Home Office and other law enforcement agencies as relevant. The protocol should reflect the realities of victims' and witnesses' experiences, drawing on the expertise of the relevant specialist organisations for supporting victims with insecure immigration status. The protocol would need to have some inbuilt flexibility and also:
 - Address the respective roles and responsibilities of the police and the Home Office in safeguarding migrant victims of crime, with explicit attention to differences in approach that may arise for victims in different circumstances;
 - For victims of DA or other gender-based violence, clarify that it is the responsibility of the police service, working with suitable specialist partner agencies, to provide safeguarding functions, and that sharing information on victims of DA with Immigration Enforcement does not constitute safeguarding;
 - Address the purposes of sharing information, as well as who does what with the information, how it will be acted on by the Home Office, and in what circumstances, with agreement about the terms of assurances that can be provided to victims and witnesses;

- Specify the circumstances in which information may be shared by police with the Home Office and ensure that victims and witnesses are told what information is to be shared and why, with reference to their clear basis in law to share;
 - Be supported by appropriate governance processes to ensure that: personal data is processed in accordance with data protection law; due consideration is given to security (both in sharing and storage), retention and deletion of personal data; and all organisations can demonstrate accountability;
 - Reflect consultation with data protection officers and reference to relevant Information Commissioner’s Office guidance to ensure that data sharing is compliant with data protection law and clearly documented;
 - Address the implications for data sharing within Multi-Agency Risk Assessment Conferences (MARACs) and other multi-agency safeguarding groups;
 - Set out a nationally equitable position on access to specialist victim support services that can assist victims in resolving uncertainties associated with immigration status;
 - Enable the victim or witness to contribute to any potential prosecution so that perpetrators are held to account and that the victim or witness is supported to contribute to any potential prosecution, in the public interest; and
 - Be publicised through the appropriate channels to promote migrant victims’ and witnesses’ confidence in the existence of safe reporting pathways to receive support from the police and other statutory agencies without fear that their immigration status will be prioritised over their complaint to the police.
- 3.2 This protocol should be adopted by the police service across England and Wales. When the protocol has been agreed, the National Police Chiefs’ Council (NPCC) should consider how to operationalise it in consultation with the CoP so that the contents inform police responses.
- 3.3 **Force response:** This recommendation is addressed to the Home Office and the NPCC. The Constabulary will await further information.
- 4. Recommendation 4: To Chief Constables –**
- 4.1 With reference to recommendation 1, and in consultation/collaboration with local or national specialist organisations, chief constables should take steps to ensure that all migrant victims and witnesses of crime are effectively supported through safe reporting pathways to the police and other statutory agencies. They should:
- Ensure there is a proper policy and practice framework in place for officers to work with;
 - Develop victim and witness support policies that reflect the characteristics of the safeguarding protocol set out in recommendation 3, and: draw on all relevant national guidance with particular reference to the Code of Practice for Victims of Crime and data protection legislation; are developed in partnership with and include pathways to the relevant specialist organisations for supporting victims and witnesses with insecure immigration status; are clear about the circumstances in which information will be shared by police with immigration enforcement;

provide clarity about the purpose of sharing information at different points of the pathway; and explicitly recognise the importance of telling victims, witnesses and supporting agencies whether information will be shared with immigration enforcement, and if so, when and in what circumstances;

- Promote understanding among police officers and staff to differentiate between responses to victims of modern slavery/human trafficking and victims of domestic abuse;
- Promote awareness within their forces of any existing pathways to specialist organisations for supporting victims with insecure immigration status;
- Ensure the policy and practice framework is adopted by all officers and staff who come into contact with victims of crime who have insecure immigration status; and
- Promote police engagement in regular outreach community work, as highlighted as good practice in this report.

4.2 **Force Response:** The Constabulary will establish the approach they will take to implement the recommendation addressed to the Chief Constable and provide an update to HMICFRS within six months.

4.3 While a fuller strategy will be designed and implemented within the coming six months the following steps are underway and will be introduced in the intervening period that directly address many of the above points and those cross-referenced to point 3:

- i. Overarching and remodelled bespoke victim/witness, offender/suspect, crime standards and vulnerability strategies are currently being designed and will go live in Spring 2021. In essence they provide force-wide clarity around direction, structure, governance, and the operational practicalities of delivering a service that places victim safeguarding at the heart of everything Cambridgeshire does. This includes migrant victims of crime and will enhance the support already given through the dedicated migrant victim staff within the Victim & Witness Hub.
- ii. These strategies will set out the existing and pending measures that will ensure that migrant victims of domestic abuse, serious sexual offences and migrant child victims of abuse or exploitation in particular are all safeguarded to the very best abilities of the Constabulary and its partner agencies
- iii. At a current tactical level, we would point to the following areas that most directly address the numerous points above, promoting awareness of Modern-Day Slavery (MDS), trafficking and other offences, the partnership support mechanisms available and how and when information should be shared appropriately:
 - We have an exceedingly well prepared and well-trained Multi Agency Safeguarding Hub (MASH) contingent and Missing, Exploited and Trafficked Hub (METHub) that work hand in glove with Local Authorities (LA) and 3rd sector partners. They understand the above principles and will be alive to this issue and emphasis. They will seek to cascade this through Continuous Professional Development Units (CPDUs) for frontline adherence; this will ensure – as they do as business as usual (BAU) – that proactive steps must be

taken in the short term to assist all officers to promote the interests, and correct support, of migrant DA abuse victims.

- The creation and implementation recently of the Vulnerability Assessment Tracker to identify those young people at increasing risk of being Missing from Home (MFH) or Child Criminal Exploitation/Child Sexual Exploitation (CCE/CSE). This will specifically consider and ensure the correct and ICO-compliant flow of information between parties and agencies.
 - New Young Person Early Intervention Officers who came on line in December to assist the MetHub in reaching out and debriefing vulnerable children and young persons (CYP) to reduce MFH instances and assimilate intelligence on developing criminal trends including: MDS, criminal exploitation and the organised crime groups that support immigration-related offences and the criminal activity that preys upon vulnerable groups such as migrants, CYP and those exposed to DA events.
 - The first meeting of a new DA 'Think Tank', which brings together police and Domestic Abuse and Sexual Violence/Office of the Police and Crime Commissioner (DASV/OPCC) leads, took place on 12 January 2021 with the purpose of generating further preventative programmes and victim support mechanisms. This forum can be specifically used as a means to draw upon local knowledge and devise methods to access hard to reach, often expatriate, communities who are reluctant to engage and report abuse owing to their insecure immigration status, especially post-Brexit.
 - Renewed officer training to enhance officer awareness of all vulnerability issues – in particular perceiving emerging vulnerability – with serious sexual offences (SSO) survivors and DA stalking and harassment experts in January alone, delivering input to upskill frontline and Protecting Vulnerable People (PVP) staff as to best practice, force expectations and the relevant safeguarding protocols and partnership pathways and opportunities.
 - Current BAU of the plethora of internal and partnership governance, scrutiny and implementation groups around DA, DASV and SSOs continues monthly ensuring internal flow of information between frontline and central PVP on live cases, developing trends and crucially, assessing officer response toward vulnerable victims through partnership feedback and support.
 - Vulnerability Focus Desks are currently in design phase for potential roll out in spring 2021. These will ensure the oversight and drive of all vulnerability provision through teams north and south of specialist PVP officers supporting front line staff. DA and MFH provision in particular will be supported with risk identified, opportunities for safeguarding implemented and pathways to partner assistance quickly followed.
- iv. Most specifically, there was a meeting held between PVP lead officers and divisional and Intelligence and Specialist Crime Unit (ISCD) leads on 8 January 2021 in respect of Op Innerste, the Immigration Service's own process through which migrant CYPs are identified and safeguarded through local policing protocols. In short, this ensures that such vulnerable people are not treated or classed as

suspects of immigration offences but are treated from the outset as vulnerable individuals who should be supported with and through every element of LA, police and 3rd sector partnership resources. This is being refreshed as Constabulary policy and best practice with communications internally to achieve this including reporting, partnership and post-Brexit intelligence research protocols.

5. Recommendation 5: To Chief Constables and Police and Crime Commissioners (or equivalents) –

5.1 With reference to recommendation 1, pending the developments outlined in other recommendations, and in consultation/collaboration with local or national specialist organisations, chief constables and police and crime commissioners should take steps, through the appropriate channels, to promote migrant victims' and witnesses' confidence in reporting crimes to the police through safe reporting pathways, without fear of prioritised immigration control.

5.2 **Response:** The Constabulary will establish the approach they will take to implement the recommendation addressed to the Chief Constable and provide an update to HMICFRS within six months.

5.3 This will begin in the very near future with consultation and input requested within the existing partnership boards (primarily the DASV and Adult/Child Safeguarding Boards) to address the two key issues of: i) ensuring migrant crime reporting (especially in DA matters) is encouraged through well-publicised routes to justice and support mechanisms; and ii) ensuring police and partners are adequately prepared to prioritise and progress DA offences in particular when reported by those with insecure immigration statuses, above any consideration of this immigration status.

5.4 These fora for discussion will ensure a breadth of expertise in devising new measures, cohesive planning and delivery and sufficient 'buy-in' and communications support to ensure successful delivery in the coming weeks. Equally, there will be consultation with divisional senior officers to devise and ensure understanding and delivery by frontline/reporting officers. As referenced at point 1, there will be short term comms inputs to increase awareness and ensure correct referral without needing to wait until the wider strategies come on board.

5.5 **Response:** The Acting Commissioner's Office will support the Constabulary in raising awareness of these pathways through existing communication channels and those of partner organisations.

6. Recommendation 6: To Police and Crime Commissioners (or equivalents) –

6.1 Conduct an assessment of local access to specialist victim support organisations or networks and take any necessary steps to build up such networks.

6.2 **Response:** The Acting Commissioner leads on commissioning support for victims of crime in the county. The model includes two specialist victim and witness care co-ordinators dedicated to supporting migrant victims of exploitation. These staff have well developed links with a wide range of other services who provide support to migrant victims of crime. However, to ensure all services are working as effectively as possible the Acting Commissioner's office will carry out a review of these pathways. This work is scheduled and will begin in February 2021.

7. Recommendation 7: To the Home Office –

7.1 Improve the recording and assurance processes related to sharing information with the police. In particular, record the status, ethnicity and nationality of people referred, or enquired about, to the National Command and Control Unit within Immigration Enforcement in order to understand and record whether the caller believes the individual to be a victim, offender or both. Collect and monitor data on the use of the Police National Computer for immigration purposes, including the number of live markers in operation. This is broader than addressing the lack of data. The investigation considers it is essential to understanding and differentiating the appropriate range of actions in individual cases, including compliance with the Code of Practice for Victims of Crime. Such data will aid transparency with the particular objective of assuring the public that all victims and witnesses are treated fairly and equitably regardless of their protected characteristics.

7.2 **Force response:** This recommendation is addressed to the Home Office. The Constabulary will await further information.

8. Recommendation 8: To all recipients of recommendations from this investigation –

8.1 Provide an update to Her Majesty's Chief Inspector of Constabulary on progress in implementing these recommendations within six months of the date of publication of this report.

9. There are also three actions for the CoP and HMICFRS:

1. Action 1: To the CoP –

Work with interested parties to consider how domestic abuse risk assessment tools used by the police and partner organisations can include immigration status as a risk factor.

2. Action 2: To the CoP –

When updating knowledge and training products, ensure that the messaging across all relevant guidance is consistent about the need for policing to balance the needs for safeguarding a victim or witness against the national interest in investigating crime.

3. Action 3: To HMICFRS –

Subject to available funding from the Home Office, HMICFRS will consider whether future inspection activity and/or monitoring could review how the issues raised by this super-complaint are being addressed by forces, once they have had an opportunity to make changes in the light of this investigation.