

Protective force field



LAWYERS acting for the family of an unarmed man who was shot dead by police more than four years ago have asked the Independent Office for Police Conduct (IOPC) to explain the continuing delay into its criminal and disciplinary investigations.

Sean Fitzgerald, 31, died on 4 January 2019 from a gunshot wound to the chest as he exited the rear of a house in Coventry while officers from West Midlands and West Mercia Police entered through the front. No firearms were found.

The watchdog is obliged under the Police Reform Act 2002 to launch a swift investigation if there is any "indication" that a crime or misconduct "may" have been committed by officers – a low threshold. But human rights lawyers and Inquest, which campaigns over deaths involving police and other state bodies, say this rarely happens, even when police use fatal force. Officers are usually initially treated as witnesses rather than being formally interviewed, and evidence can be lost.

IOPC practice is to be tested in the high court over the death last year of Oladeji Omishore, 41, who was suffering a mental health crisis when two officers repeatedly discharged tasers at him on London's Chelsea Bridge. He tried to flee by leaping over the wall but drowned in the Thames. The incident was filmed by a passer-by. Mr Omishore's family say officers should have tried to calm the situation with an obviously ill man instead of immediately using a taser. However, the police watchdog – now accused of failing in its duty to investigate the incident properly – has only ever treated the officers as witnesses.

In the case of Mr Fitzgerald, a former soldier, it took the IOPC more than two years before it announced that the firearms officer who fired the fatal shot was being served with a notice that he was under investigation for "gross misconduct". It took another year, until March 2022, before the watchdog said the officer was under investigation for potential homicide. But there has still been no decision about whether or not to refer the case to the Crown Prosecution Service. In the meantime, no coroner can investigate or make

recommendations to prevent future similar deaths.

Mr Fitzgerald's brother, Liam, said it had been a "nightmare that no family ever believes will affect them", made worse by a four-year battle to find the truth.

The IOPC said it had been a complex investigation involving the planning and execution of a house raid. Last summer it decided that "further independent analysis" was required, which led to delay because of the need to identify "someone suitably qualified". An expert's report received just before Christmas is being considered.

Lawyer Helen Stone of Hickman & Rose, who represents Mr Fitzgerald's family, told the *Eye* that if the IOPC had properly applied the legal threshold for holding a homicide investigation, the need for an expert should have been identified much earlier: "For the Fitzgerald family, it was clear that the threshold was met at the time of Sean's death."