

<b>Consideration</b>	
<b>Public/Non Public*</b>	<b>Public</b>
<b>Report to:</b>	<b>Joint Audit and Scrutiny Panel</b>
<b>Date of Meeting:</b>	<b>25 May 2021</b>
<b>Report of:</b>	<b>Police and Crime Commissioner</b>
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<b>Agenda Item:</b>	<b>17</b>

\*If Non Public, please state under which category number from the guidance in the space provided.

## COMPLAINTS & REVIEWS ASSURANCE REPORT

### 1. Purpose of the Report

- 1.1 To provide the Joint Audit and Scrutiny Panel, Police and Crime Commissioner (Commissioner) and Deputy Police and Crime Commissioner (Deputy Commissioner) with assurance that Nottinghamshire Police Complaints are being managed in accordance with Legislation and Statutory Guidance.
- 1.2 This report was presented to the Nottinghamshire Police Organisational Risk, Learning, Standards & Integrity Board on 10 March 2021 ahead of the Joint Audit and Scrutiny Panel and thereafter will be considered by the Police and Crime Panel.

### 2. Recommendations

- 2.1 Note the learning identified and agree to consider a future report from the Head of Professional Standards Directorate (PSD) in response to this report.

### 3. Reasons for Recommendations

- 3.1 The Commissioner and Deputy Commissioner have an oversight responsibility to ensure that Nottinghamshire Police Complaints are managed in accordance with:
  - Police (Conduct) Regulations 2020
  - Police and Complaint and Misconduct Regulations 2020
  - Independent Office for Police Conduct (IOPC) Statutory Guidance 2020

### 4. Summary of Key Points

#### **4.1 What is a complaint?**

A complaint is any expression of dissatisfaction with a police force that is expressed by or on behalf of a member of the public.

#### **4.2 Complaint Files Dip Sampling Overview**

To establish if Nottinghamshire Police complaints are being handled in accordance with the above-mentioned guidance and legislation, the Office of the Police and Crime Commissioner dip sampled 64 complaints relating to dog bites and use of force complaints closed between 01 February 2020 – 31 January 2021.

Seven complaints cases were not included in the sample as they were handled by PRI, special procedures or Initiated under old regulations.

57 cases were therefore dip sampled.

#### **4.3 Findings**

For all complaints sampled there was sufficient detail of the complaint and an initial assessment had taken place.

The average time taken for PSD (Professional Standards Directorate) to acknowledge a complaint in writing was 10 days.

57 (100%) of the complaints sampled were concerning complaint category B4 – use of force.

There have been no dog bite complaints finalised during the period 01 February 2020 – 31 January 2021.

#### **4.4 Complaints handled otherwise than by Investigation**

Complaints handled otherwise than by investigation are lower level complaints where it is likely that, if proven, the allegation would not result in further proceedings.

Complaints that can be quickly resolved to the satisfaction of the complainant can be logged outside of schedule 3. Complaints should be recorded inside schedule 3 if the complaint requires further investigation or if the complainant requests that the complaint is recorded.

4.4.1 22 (39%) of the complaints sampled were handled otherwise than by investigation inside of schedule 3.

4.4.2 2 (3%) complaints were handled outside of schedule 3.

- 4.4.3 The outcome of all 24 complaints was that the service provided by the Police was acceptable.
- 4.4.4 56 days was the average case time taken to resolve a complaint handled otherwise than by investigation.
- 4.4.5 All complainants were provided with a written outcome letter that also detailed their right to have their complaint reviewed.
- 4.4.6 There is no right of review for complaints handled outside of schedule 3.
- 4.4.7 7 (12%) of complainants applied their right to have their complaint reviewed. The OPCC is the relevant review for complaints handled otherwise than by investigation.
- 4.4.8 3 (43%) of reviews were not upheld and the outcome was that the response provided by Nottinghamshire Police was reasonable and proportionate.
- 4.4.9 2 (28.5%) reviews were upheld, CO/00133/20 and CO/00159/20. Please see Appendix B for details of complaint review recommendations and responses.
- 4.4.10 2 (28.5%) reviews are ongoing.
- 4.4.11 1 complaint was withdrawn by the complainant.

#### **4.5 Professional Standards Directorate Investigations**

Professional Standards Directorate Investigations are where it is likely that, if proven, the allegation of criminality or conduct would justify disciplinary proceedings.

- 4.5.1 33 (58%) of the complaints sampled were investigated by PSD.
- 4.5.2 The outcome of 32 of the complaints was that the service provided by the Police was acceptable.
- 4.5.3 The outcome of the remaining complaint, CO/00907/20, was unsatisfactory performance by an officer and advice was given from a supervisor.
- 4.5.4 The average case time taken to resolve PSD investigation is 35 days.
- 4.5.5 All complainants were provided with a written outcome letter that also detailed their right to have their complaint reviewed.

- 4.5.6 2 PSD Investigation reviews have been received. The IOPC is the relevant review body for PSD Investigation complaint reviews.
- 4.5.7 1 review (CO/00136/20) was upheld and the recommendation from the IOPC was for the complaint to be managed by the Reflective Practice Review Process.
- 4.5.8 1 review (CO/572/20) is ongoing.
- 4.5.9 8 complaints were withdrawn by the complainant. There was evidence that a public interest test had been completed and the outcome of all 8 was that it was not in the public interest to proceed with the complaint.

#### **4.6 Observations**

CO/00151/20 is recorded inside schedule 3 however there is no evidence of any communication with the complainant detailing the outcome of the complaint or their right of review.

It is not clear why CO/00152/20 complaint was recorded differently on Centurion.

The initial assessment form is labelled as Duty Report or Complaint Report within Centurion. There is evidence that the form is completed once a complaint is initially assessed but it does not appear to be updated throughout the complaints process.

There is varying terminology when a complaint is handled otherwise than by investigation. Local proportionate investigation and reasonable proportionate handling are frequently used.

PSD investigation case time is an average of 35 days. Whilst this is an excellent response time for investigations, the average case time for complaints handled other than by investigation is 56 days.

The dip sample identified two cases where complaint outcome letters were sent to complainants in Microsoft Word format.

#### **4.7 Dip Sampling Recommendations**

For the Professional Standards Directorate to:

- a) Provide assurance to the PCC/DPCC that all complaints relating to 4.6 of this report have been updated.
- b) Confirm the PSD special procedures process to the PCC/DPCC.

- c) Consider consistent IOPC 2020 Guidance terminology in correspondence and on Centurion
- d) Advise the PCC/DPCC of the process for updating the initial assessment form throughout the complaints process
- e) Review why the average case time for complaints handled otherwise than by investigation is higher than for PSD investigations
- f) Ensure that all letters sent via e-mail to external e-mail addresses are sent in PDF format.

#### **4.8 Complaint Reviews Breakdown**

The new legislation only applies to cases coming to the force’s attention on, or after, 1 February 2020. Therefore it was several weeks before the first complaint review was received by the Office of the Police and Crime Commissioner.

For the twelve months (1 February 2020 – 31 January 21) there have been 39 complaint reviews undertaken.

9 (23%) complaint reviews have been upheld; in each case recommendations were made to Nottinghamshire Police.

Please see Complaint Review Monitoring Report Appendix A for further information on Police Complaint Reviews undertaken by the Office of the Police and Crime Commissioner. Appendix B also details the recommendations made to Nottinghamshire Police.

### **5. Financial Implications and Budget Provision**

5.1 There are no financial implications or budget provision.

### **6. Human Resources Implications**

6.1 There are no human resource implications.

### **7. Equality Implications**

7.1 There are no human resource implications.

### **8. Risk Management**

8.1 There may be a risk to the public’s confidence in Nottinghamshire Police.

### **9. Policy Implications and links to the Police and Crime Plan Priorities**

9.1 The report links to the Police and Crime Plan Governance and assurance priorities.

## **10. Changes in Legislation or other Legal Considerations**

10.1 None

## **11. Details of outcome of consultation**

11.1 The Head of the Professional Standards Directorate has been consulted on this report.

## **12. Appendices**

12.1 Appendix A Complaint Review Monitoring Report

12.2 Appendix B Upheld Review Recommendations

## **13. Background Papers (relevant for Police and Crime Panel Only)**

13. N/A

## Complaint Review Monitoring Report

### BACKGROUND

On 1 February 2020 the process for dealing with complaints against the police in England and Wales was changed as a result of amendments to the Police Reform Act 2002 and implementation of the Police (Complaints and Misconduct) Regulations 2020. This report focuses on one aspect of the changes, namely the new responsibility that the local policing body (Police and Crime Commissioner) has for undertaking reviews of some complaints.

The legislation changes effectively created three different approaches to handling police complaints; those dealt with outside of Schedule 3 Police Reform Act 2002; those that are recorded under the Police Reform Act but dealt with “*other than by investigation*” and those that are recorded under the Police Reform Act and formally investigated. In broad terms, if there is an indication that someone serving with the police may have behaved in a way that would justify disciplinary proceedings this will result in a formal investigation, if there is no such indication the complaint can be dealt with “*other than by investigation*”. In effect “*investigation*” merely denotes that an *individual* is being investigated for potential misconduct. Cases “*dealt with other than by investigation*” will still seek to address a complainant’s concerns.

Where a complaint has been recorded it must be handled by the police force in a reasonable and proportionate way. Once the matter has been finalised the complainant is entitled to ask for a review if they are not satisfied it has been handled reasonably and proportionately. In most cases, where a complaint has been formally investigated it will be for the Independent Office for Police Conduct (IOPC) to carry out the review whereas if the matter has been dealt with “*other than by investigation*” the PCC will be the review body.

### Method

In Nottinghamshire the PCC has commissioned Sancus Solutions to provide an independent reviewer who can consider and report on each complaint review. This process has been effective from 1 February 2020. Sancus Solutions provide a similar service to seven other PCCs. The reviewer appointed for the Nottinghamshire Office of the Police and Crime Commissioner has senior management experience of dealing with complaints.

When a complaint has been dealt with by the force the complainant receives a finalisation letter that advises to whom they should write if they are not satisfied their complaint has been dealt with in a reasonable and proportionate way. Where a complainant contacts the Office of the PCC seeking a review this is recorded and Professional Standards Department (PSD) are asked to make all relevant material available to the reviewer. The reviewer then accesses documents through the Centurion system that is used by PSD.

Once the reviewer has considered the case they provide a draft report for consideration and approval by the PCC or their deputy and, in appropriate cases, focused relevant feedback for PSD. Where the review determines that the original outcome was reasonable and proportionate the complaint review is not upheld. However if the outcome was not determined as reasonable and proportionate the complaint review is upheld and the PCC is entitled to make recommendations to the force for further action.

## **Complaint Reviews Breakdown**

The new legislation only applies to cases coming to the force's attention on, or after, 1 February 2020. Therefore it was several weeks before the first complaint review was received.

For the twelve months (1/2/20 – 31/1/21) the Office of the Police and Crime Commissioner received 52 requests for a complaint review, all of which have now been considered.

Of the complaints undertaken, 9 (23%) complaint reviews have been upheld; in each case recommendations were made to the force.

## **Learning**

The relatively low numbers mean it is difficult to identify specific patterns or to draw conclusions about how complaints are handled by the force. In a number of the nine upheld cases the enquiries carried out by the force were insufficient to address the complainant's concerns and suitable recommendations were made by the PCC to rectify this.

In some cases it was apparent that complaint handlers had either not fully understood the range of changes introduced in the new legislation or had not yet been confident about applying them (for instance there was limited consideration of the newly introduced concept of Practice Requiring Improvement – PRI). Any new legislation is likely to take some time to 'bed in' and for people to develop confidence in new practices. It is unfortunate that the changes became effective at the same time the coronavirus pandemic developed and it is likely this has made it more difficult for the force to reinforce the new approach in a consistent manner. Experience in other forces is similar.

One area for improvement that has been identified is the finalisation letters that were sent to complainants. In many cases these were unstructured, unclear or difficult to understand. In some cases the complaint had been handled appropriately but the finalisation letter did not adequately articulate this. During the first six months a significant proportion of finalisation letters were unsatisfactory. This was raised with the head of PSD who has been very supportive in ensuring additional training in letter writing (including a potential structure for the letter) is provided to her staff. Over the next six months this will be an area that will be considered in future reviews.



**UPHELD REVIEWS**

**APPENDIX B**

<b>Date Received</b>	<b>Ref No.</b>	<b>Issue raised by the complainant</b>	<b>Action for consideration by Nottinghamshire Police</b>
07.05.20	1	The complainant did not receive an update on their case despite them chasing. 3 months after the complaint was made, they received the finalisation letter.	For PSD to ensure there is an effective process for ensuring meaningful updates within 28 days to comply with National Guidance and Legislation.
10.07.20	2	Officers failed to investigate the incident thoroughly or make any attempts to prosecute the suspect.	That the Professional Standards Directorate should review their processes to ensure priority is given to the gathering of time-limited evidence (e.g. CCTV) where a complaint is made.  That the person responsible for the bridewell reviews the way notification is carried out to identify whether processes can be improved.
12.06.20	3	Failure to update the complainant and failure to adequately investigate.	For Investigating Officers to clearly detail if a complaint is upheld or not in their outcome response.
04.07.20	4	The complaint was that the level of service was not acceptable.	It would be good practice for outcome letters to acknowledge if the level of service received has not been acceptable, this may contribute to a satisfactory outcome.  PSD to record, action and review where organisational learning is identified.
20.08.20	5	The complaint had not been adequately considered. No updates were received, as the complainant was a suspect.	It would be good practice if the outcome letter confirms exactly what the complaints were, so it is clear exactly what has been considered.  Should this scenario occur again, does Nottinghamshire Police have a process/guidance for updating an individual if they're both a victim & suspect?

30.07.20	6	The complaint related to a Public Order offence by a member of the public towards him.	For PSD to ensure that the outcome letters addresses the complaint.
08.10.20	7	Not satisfied with the outcome of the racial abuse incident.	For PSD to ensure victims are advised of the Victims Right to Review process when appropriate.