



WEST YORKSHIRE POLICE AND CRIME PANEL

20 December 2019

Complaints and Legislation Update

1. Purpose

- 1.1 To provide members of the Police and Crime Panel with an update on complaints and casework dealt with by the Police and Crime Commissioner (PCC) during 2019.

2. Background

- 2.1 The PCC is the 'appropriate authority' under the Police Reform Act 2002 with regards to complaints or conduct matters relating to the Chief Constable. The PCC is also responsible for holding the Chief Constable to account for the way that West Yorkshire Police deal with complaints and conduct matters.
- 2.2 The Police and Crime Commissioner also deals with casework brought to him by members of the public in West Yorkshire.

3. Complaints and conduct matters relating to the Chief Constable

- 3.1 During 2019 (to 29/11/2019) three public complaints were recorded against the Chief Constable; two were resolved 'on the spot' by way of explanation and one was formally resolved under the Police Reform Act 2002 (the Act). Two appeals were made to the IOPC; one was dismissed and one was partly upheld but no further action was required. Details of the complaints recorded against the Chief Constable are published on the PCC's website.
- 3.2 29 of expressions of dissatisfaction were also received by the Office of the Police and Crime Commissioner (OPCC) relating to the Prime Minister's visit to the Carr Gate Training School on 5 September 2019. None were formally recorded under the Police Reform Act as they did not meet the requirements for the complainant to be adversely affected or a witness to the conduct being complained about as specified within the Act.
- 3.3 No conduct matters have been recorded against the Chief Constable during 2019.

4. Casework

4.1 The Office of the Police and Crime Commissioner continues to receive approximately 80 new cases every month, covering a wide range of issues. The casework software used within the office allows cases to be categorised by keywords and this enables an analysis of the issues brought to the Commissioner's attention.

4.2 Comparison of the casework recorded since 2016 shows the following:

Most common themes	2016	2017 to 31/10/2017	01/11/2017 to 31/10/2018	01/11/2018 to 31/10/2019
1	Dissatisfaction with how West Yorkshire Police is dealing with a crime report.	Dissatisfaction with how West Yorkshire Police is dealing with a crime report.	Traffic issues – primarily calling for more to be done to tackle drivers who speed and/or drive dangerously and who park inconsiderately.	Police response – the majority relates to lack of updates/responses and closure of crimes without a positive outcome.
2	Concern about traffic issues – mostly wanting the police to take enforcement action.	Concern about traffic issues - mostly wanting the police to take enforcement action.	Police response – the majority relates to lack of updates/responses and closure of crimes without a positive outcome.	Traffic issues – primarily calling for more to be done to tackle drivers who speed and/or drive dangerously and who park inconsiderately.
3	Complaint about police officers or police staff.	Complaint about police officers or police staff.	Complaints about police officers or police staff.	Complaints about police officers or police staff.
4	Concerns about drug dealing - wanting police action.	Concerns about drug dealing - wanting police action.	Anti-social behaviour – around half of the contact relates to ASB by adults and half to ASB by young people.	Drug dealing and drug taking – wanting the police to take more action.
5	Young people causing anti-social behaviour – wanting police action.	Neighbour issues – wanting police action.	Drug dealing and drug taking – wanting the police to take more action.	Anti-social behaviour – significantly more reports relate to ASB caused by young people than adults.

- 4.3 Of note, there were 22 cases of fraud brought to the OPCC's attention in 17/18 and 27 in 18/19 and the OPCC has been asked to assist in 24 neighbourhood disputes in 17/18 and 32 in 18/19. Whilst smaller in terms of volumes, these 2 issues – which are often complex – account for a significant amount of the Casework Team's time.
- 4.4 With the exception of complaints about police officers or police staff which are referred, with permission, to PSD, casework staff work in co-operation with colleagues in police districts and departments to address issues brought to the Commissioner's attention as far as is possible.

5. Introduction of the Independent Office for Police Conduct

- 5.1 The Independent Office for Police Conduct (IOPC) was introduced in January 2018 to replace the Independent Police Complaints Commission (IPCC). The changes were designed to create a more effective internal structure with the introduction of direct reporting lines to the Director General.
- 5.2 The Policing and Crime Act 2017 will introduce further changes and additional powers for the IOPC, including the power to launch an investigation without a police referral, the power to present cases at misconduct hearings and the power decide whether an officer should face a misconduct hearing (presently the IOPC directs the Force to undertake misconduct hearings). A new duty will also be introduced requiring police officers to co-operate with IOPC investigations.

6. Policing and Crime Act 2017

- 6.1 In December 2016 members received a report giving an overview of the changes to be introduced by the Policing and Crime Act 2017 to the police complaints system. Changes include:
- (a) Introducing a broader definition of a complaint to be any expression of dissatisfaction with a police force by a member of the public;
 - (b) Allowing low level customer-service issues to be resolved informally outside of the formal process;
 - (c) Requiring that all complaints are recorded unless the complainant withdraws the complaint or it is decided to address it informally and the complainant is in agreement;
 - (d) Adding a broad duty to consult a complainant about how their complaint might be dealt with;
 - (e) Removing the different options of handling complaints such as local resolution, local investigation and disapplication, and replacing them with a duty for appropriate authorities to handle complaints in a reasonable and proportionate manner. In some cases reasonable and proportionate action may involve taking no further action. The only exception is where there is an indication the conduct complained of would justify criminal or disciplinary

proceedings, or a breach of articles 2 or 3 of the Human Rights Act when an investigation is mandatory.

- (f) Adding a duty for the appropriate authority to keep complainants and interested parties informed about the progress of the complaint, the outcome and their appeal rights regardless of how the authority is handling their complaint;
- (g) Simplifying appeal points, as a consequence of other changes, so that there is one right of appeal in relation to the outcome of the complaint.

6.2 The Act also strengthens the role of Police and Crime Commissioners in the complaints process:

- (a) Adding an explicit duty on PCCs in relation to the oversight of the complaints process;
- (b) PCCs will become the body to deal with reviews, currently known as appeals, where, even if it were proved, criminal or disciplinary action would not be justified;
- (c) After considering a review, PCCs will be able to recommend how the complaint should be resolved. Chief Constables will be expected to co-operate with PCCs to achieve a satisfactory outcome.

6.3 The Act specifies three models available to PCCs:

Model 1 (Mandatory) – PCCs will be responsible for dealing with reviews of the less serious complaints, those that, on the basis of the complaint itself, would not justify criminal or disciplinary action. Reviews of serious complaints and those relating to the Chief Constable will continue to be done by the IOPC.

Model 2 (Optional) – PCCs will be responsible to dealing with reviews of the less serious complaints and will also receive all complaints, resolving as many as possible outside of the complaints regulations and, for those which cannot be resolved this way, formally recording the complaint and passing it to PSD to deal with under the Police Reform Act.

Model 3 (Optional) – As for model 2 plus the PCC will be responsible for updating complainants about how the complaint is being handled by PSD and informing the complainant of the outcome of the complaint and their right to review.

6.4 The planned enactment date for the Policing and Crime Act has been delayed to 1 February 2020 in view of Parliamentary pressures arising from BREXIT. The implementation date may be subject to further change depending on the outcome of the General Election.

6.5 Work has been ongoing in West Yorkshire to prepare for introduction of the changes as follows:

- (a) The PCC has agreed to adopt Model 1 under the Policing and Crime Act. This is the option that has been agreed by the majority of PCCs (30 of the 42 OPCCs to which the Policing and Crime Act applies have decided to adopt model 1 with 9 still to make a decision, 2 adopting model 2 and 1 adopting model 3¹).
- (b) The OPCC will begin to use the Centurion system to record review outcomes. This system is used by all Forces and the IOPC to monitor complaints. The Centurion system will also be used to manage the casework undertaken by the OPCC and the provider is presently making appropriate adjustments to it to accommodate this. Staff from the OPCC have joined the Centurion user-group to contribute to the development of the system.
- (c) Staff in the OPCC will have access to the Niche system in order to access information to carry out complaint reviews.
- (d) Further resourcing will be required in the OPCC and a Casework and Complaints Officer will be recruited. The IOPC's annual complaints statistics show that for the year 2018-19 West Yorkshire Police formally recorded 1,737 complaints with 215 local resolution appeals recorded. The number of reviews likely to be received in the OPCC is difficult to predict with precision – the number of review requests may increase as a result of increased public confidence in the independent review process but West Yorkshire Police expects to be able to continue to resolve more complaints 'there and then' outside of the Police Reform Act.
- (e) Staff from the OPCC and Professional Standards Department(PSD) have attended a training event commissioned by the National Police Chiefs' Council which considered the new complaint regulations and the Association of Police and Crime Commissioners have arranged further training in early 2020 for OPCC staff in dealing with complaint reviews and Chief Constable complaints.
- (f) The IOPC and Home Office are planning to release detailed guidance in December and are presently consulting with Forces and OPCCs on the content of the guidance.
- (g) The Policing and Crime Act increases the threshold for misconduct (to behaviour which must justify at least a written warning) and introduces a *reflective review process* for lower level cases. PSD is presently planning for the introduction of the reflective review process with line managers across the Force.
- (h) The OPCC is presently developing public information and communications resources in order to publicise the new complaint regulations and advise people how to make complaints and what to expect once they have made a complaint. Social media will be an important platform – both for finding

¹ Data as at 28/11/2019

out about the complaints process and also for enabling people to make a complaint.

- (i) Finally, work is presently underway to determine new reporting requirements from West Yorkshire Police to enable the OPCC to fulfil its new responsibilities for oversight of the complaints process.