



STRATEGIC POLICING AND CRIME BOARD

March 2017

PROFESSIONAL STANDARDS DEPARTMENT

PURPOSE OF REPORT

1. The purpose of this report is to provide members of the Strategic Police and Crime Board with an overview of the work undertaken by the Professional Standards Department, (PSD) of West Midlands Police (WMP).

EXECUTIVE SUMMARY

2. This report provides statistics and details regarding the number of complaints dealt with by WMP, the type of allegations to which the complaints relate and the number of complaints that have been referred to the Independent Police Complaints Commission (IPCC). The report details outcome of cases, timeliness of investigations, results of appeals and outcomes of proceedings. Where the data is available, WMP performance is compared with most similar forces (MSF), including Greater Manchester, Merseyside, and the Metropolitan Police Service, and also national performance. (N.B. the distinction between Complaints and Allegations, as 1 complaint may contain multiple allegations)

BACKGROUND

3. Force and national PSD data is collated quarterly by the IPCC and is reported back to forces and publicly with the same frequency. At the end of the financial year the IPCC return an end of year report, which provides a final update on that year's performance against the relevant metrics. The current IPCC data runs to 31/12/2016 and the OPCC have accepted that this is acceptable for reporting.

NUMBER OF COMPLAINTS DEALT WITH BY WMP

- Pre 2013/14 WMP received a broadly analogous number of allegations to other forces. Post 2013/14 WMP receive between 20 and 25% fewer allegations per head of force. Please note that WMP receive fewer complaints than both MSF and force averages.

Volume of allegations, per 1000 staff

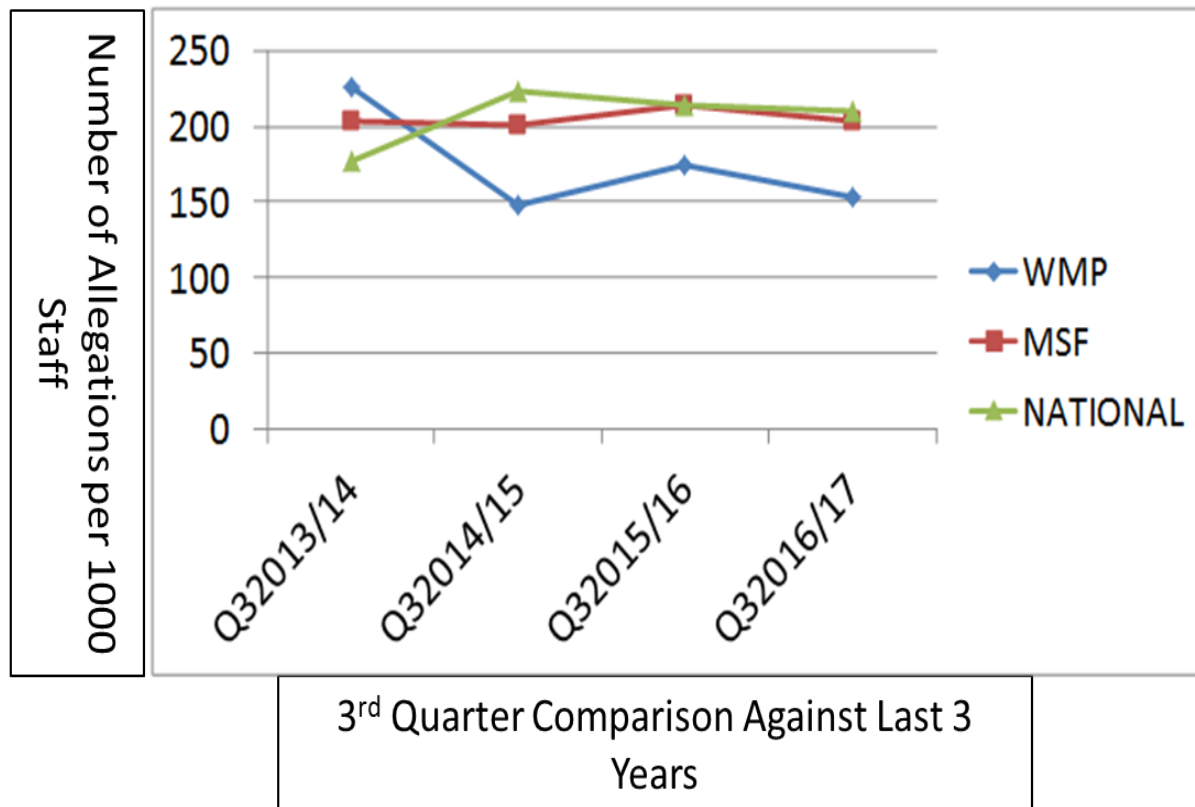


Fig 1. Allegations per 1000 staff. The IPCC measure against this metric as opposed to pure volume, due to the discrepancy between forces with 30,000+ staff and those with fewer than 1000.

WMP Staffing Levels

OFFICERS	STAFF	PCSO
6577.22	3010.63	401

Fig2. Staffing numbers (FTE). Total 9988.85.

- The total number of complaint cases is also reflective of WMP performance. Fig 3 demonstrates the volume of complaint cases across the last 3 years. NB 2016/2017 covers until December 31 2016. As such a 25% increase in complaints may be posited, which would result in a total of approximately 850 for the year, which is a significant decrease.

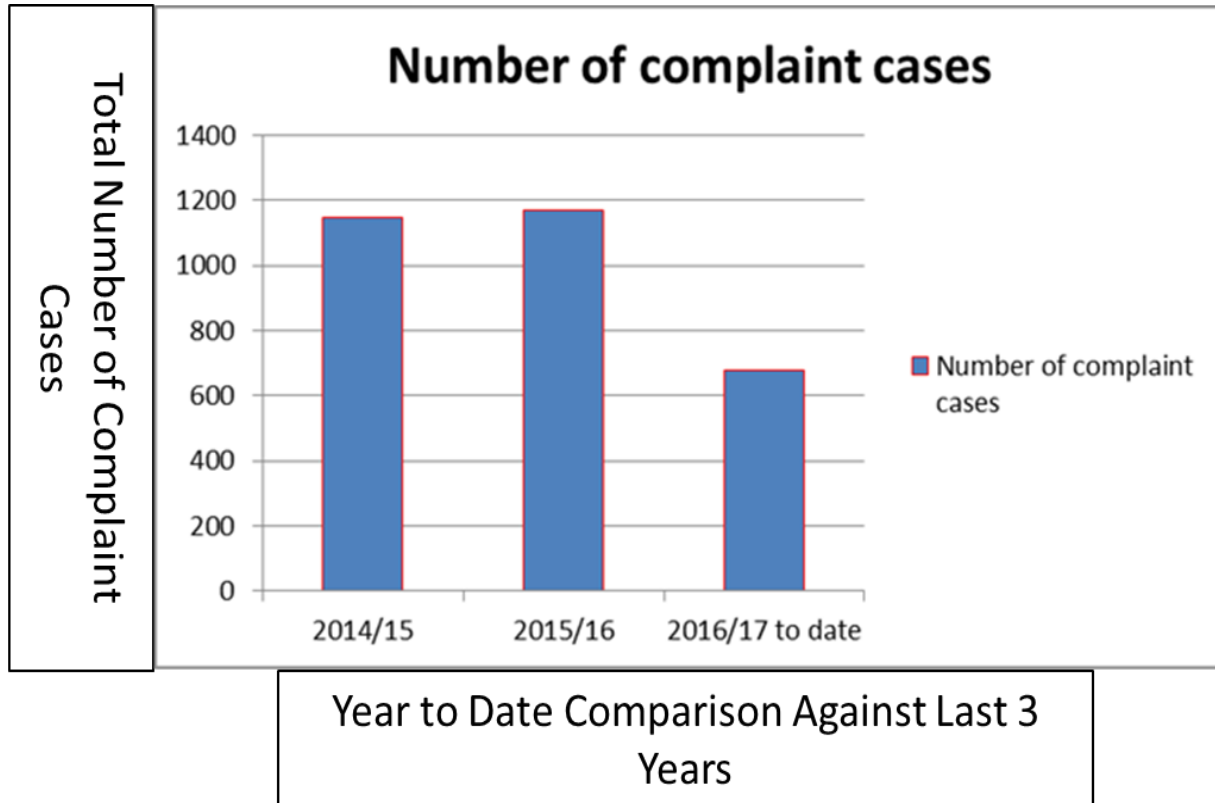


Fig 3. Total complaint cases. N.B for 2016/17 an approximate 25% increase is posited once full year data is obtained.

COMPLAINT TYPE AND FREQUENCY

- Complaints are categorised according to types to allow for easier assessment of trends. Fig 4 below demonstrates the overall number of complaints, according to type, and their volume over the last 3 years. The 5 most common complaint types have remained largely the same over the entire period, with neglect or failure in duty being the primary driver of complaints. N.B neglect and failure of duty generally relates to a failure to investigate crime to the satisfaction of the public.
- Incivility and assault complaints remain close as the second most frequent complaint types, followed by oppressive conduct and lack of fairness and/or

impartiality. Sexual complaints are relatively infrequent, but, whilst numbers are low, the impact is extremely high.

Complaints according to typology.

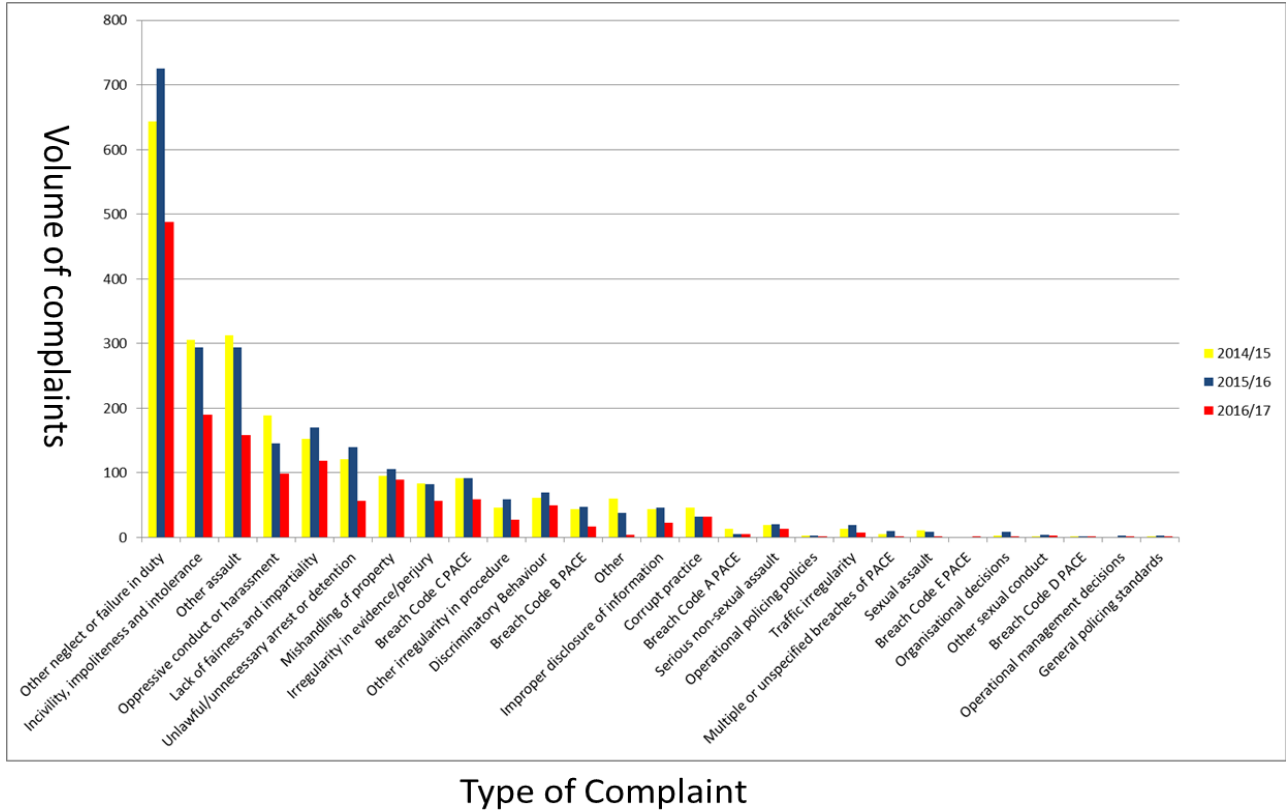


Fig4. Typology is determined centrally, but force’s allocate according to type following assessment.

Raw Data for Complaint Typology graph at Fig4.

Allegation	2014/15	2015/16	2016/17
Other neglect or failure in duty	644	725	488
Incivility, impoliteness and intolerance	305	294	190

Other assault	313	294	158
Oppressive conduct or harassment	189	145	98
Lack of fairness and impartiality	152	170	119
Unlawful/unnecessary arrest or detention	121	140	56
Mishandling of property	95	106	89
Irregularity in evidence/perjury	83	82	56
Breach Code C PACE	92	91	59
Other irregularity in procedure	46	59	27
Discriminatory Behaviour	61	69	49
Breach Code B PACE	44	47	17
Other	60	38	4
Improper disclosure of information	44	46	23
Corrupt practice	46	32	32
Breach Code A PACE	13	5	5
Serious non-sexual assault	19	20	13
Operational policing policies	3	3	1
Traffic irregularity	13	19	7
Multiple or unspecified breaches of PACE	5	10	1
Sexual assault	11	9	2
Breach Code E PACE	0	0	1

Organisational decisions	3	8	2
Other sexual conduct	2	4	3
Breach Code D PACE	1	1	1
Operational management decisions	0	3	1
General policing standards	1	3	1

Fig 5. Raw data that creates the above visual chart at Fig4.

NUMBER OF COMPLAINTS NOT RECORDED AND THE REASONS FOR NON-RECORDING

8. There have been 39 cases not recorded as a complaint in the current financial year (25% increase to end of year = 49). This is compared to 68 last year and 99 in 2014/15. This is quite a significant decrease and an on-going trend.
9. The appropriate authority must record a complaint unless:
 - i. It is satisfied that the subject matter of the complaint has been, or is being, dealt with by criminal or disciplinary proceedings against the person whose conduct it was;
 - ii. The complaint has been withdrawn; or
 - iii. The complaint falls within a description of complaints specified by the Police (Complaints and Misconduct) Regulations 2012.
The complaints that are specified by the Police (Complaints and Misconduct) Regulations 2012 are those where the appropriate authority considers that:
 - i. The matter is already the subject of a complaint made by or on behalf of the same complainant;
 - ii. The complaint discloses neither the name and address of the complainant nor that of any other interested person and it is not reasonably practicable to ascertain such a name or address;
 - iii. The complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints;
 - iv. The complaint is repetitious; or
 - v. The complaint is fanciful.
10. Of these, the primary reasons are that the complaints are either vexatious (abuse of process) or repetitious. These non-recording decisions are strictly prescribed as to what may be non-recorded.

11. Each recorded complaint (representing a dissatisfied member of the public) may be made up of more than one allegation.

Non Recorded Complaints

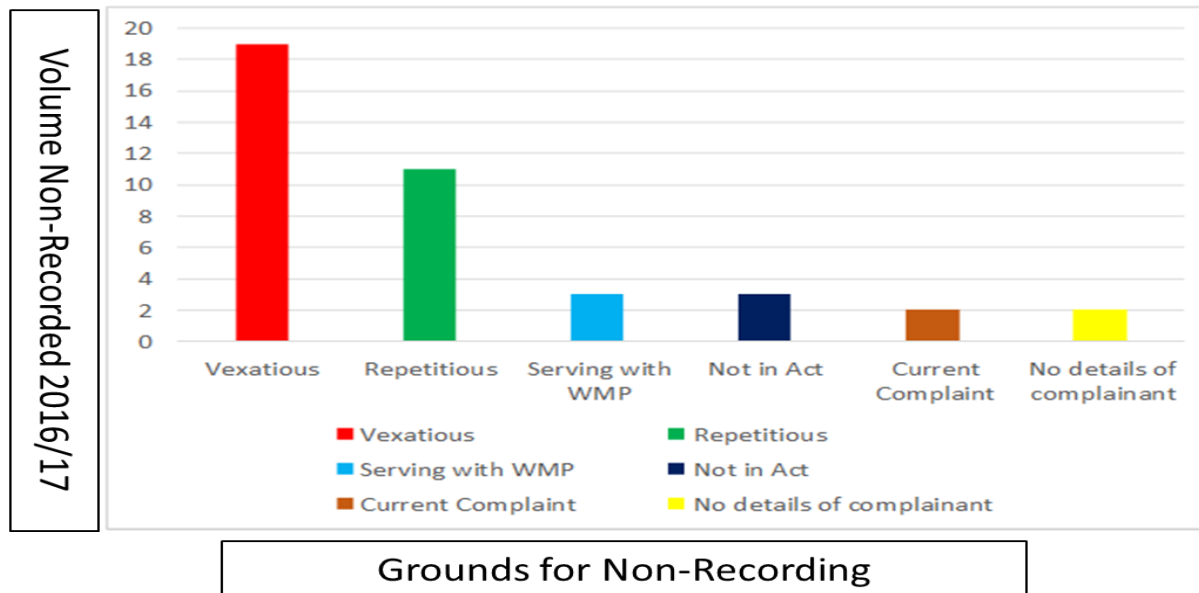


Fig6 Non Recorded Complaints.

12. Vexatious - frequently related to abuse of process e.g. complaining about an investigative result, where this is appropriately dealt with via appeal, not further complaint. This is different to “fanciful” which is rarely used, but refers to a complaint that is undeniably fabricated.

13. Repetitious - a repeat of a historical complaint already dealt with, where there is no new element to the complaint.

14. Service - Anyone serving under the same CC may not complain against another employee of the same force. Any internal complaint is a conduct matter and recorded separately.

15. Not within the Act - there is no grounds for the complaint, or it is forbidden within primary legislation.

16. Current complaint – live repetition

17. Details - Without details of a complainant or an affected party we can't record a complaint

Raw data for Non Recording Graph, and 3 year comparison

Complaints Not Recorded 2016/17	Count of Reason Not Recorded
Complaint discloses neither name and address of the complainant nor any other interested party	2
Complaint is repetitious	11
Complaint is vexatious, oppressive or otherwise an abuse of procedures for dealing with complaints	19
Does not fall within the provisions of the Act	3
Has been made by a person serving with the police	2
Matter is already the subject of a complaint made by or on behalf of the same complainant	2
(blank)	
Grand Total	39

Fig7. Raw data for 2016/17

Non-Recording 2015/16	Count of Reason Not Recorded
Complaint discloses neither name and address of the complainant nor any other interested party	1
Complaint is fanciful	1
Complaint is repetitious	23
Complaint is vexatious, oppressive or otherwise an abuse of procedures for dealing with complaints	22
Does not fall within the provisions of the Act	7
Has been made by a person serving with the police	3
Has been withdrawn	1
Is already the subject of a complaint being dealt with by criminal or misconduct proceedings	2
Matter is already the subject of a complaint made by or on behalf of the same complainant	4
(blank)	
Grand Total	64

Fig8. Comparator for 2015/16

Non-Recording 2014/15	Count of Reason Not Recorded
Complaint is repetitious	22
Complaint is vexatious, oppressive or otherwise an abuse of procedures for dealing with complaints	36
Does not fall within the provisions of the Act	30
Has been made by a person serving with the police	4
Matter is already the subject of a complaint made by or on behalf of the same complainant	7
(blank)	
Grand Total	99

Fig9. Comparator for 2014/15

INTERNAL CONDUCT MATTERS

18. The below table refers to the total volume of internally raised conduct matters recorded in the period and the nature of the conduct alleged.

Row Labels	Count of Breach Type
01 Honesty and Integrity	34
02 Authority, Respect and Courtesy	26
03 Equality and Diversity	7
04 Use of Force	6
05 Orders and Instructions	12
06 Duties and Responsibilities	29
07 Confidentiality	6
09 Discreditable Conduct	64
10 Challenging and Reporting Improper Conduct	1

Grand Total **185**

Fig10

19. The whistleblowing policy is in the final stages of review and consultation.

20. In support of the policy the practical implementation of enhanced welfare provision and training is already in hand through People and Organisational Development prior to implementation. Test cases have already been utilised where enhanced measures through the new Occupational Health and Employee Support functions are being delivered.

TIMELINESS OF INVESTIGATIONS

21. There are several areas of investigation that are open to review; local resolutions which are intended to be the swiftest and most satisfactory resolution to dissatisfaction, proportionate investigation (the vast bulk of misconduct work both

in PSD and on NPU/Department), supervised investigation and managed investigation. The latter 2 categories are subject to IPCC involvement and direction, but supervised matters are few and far between (and decreasing) and there are no current managed cases.

Local Resolutions

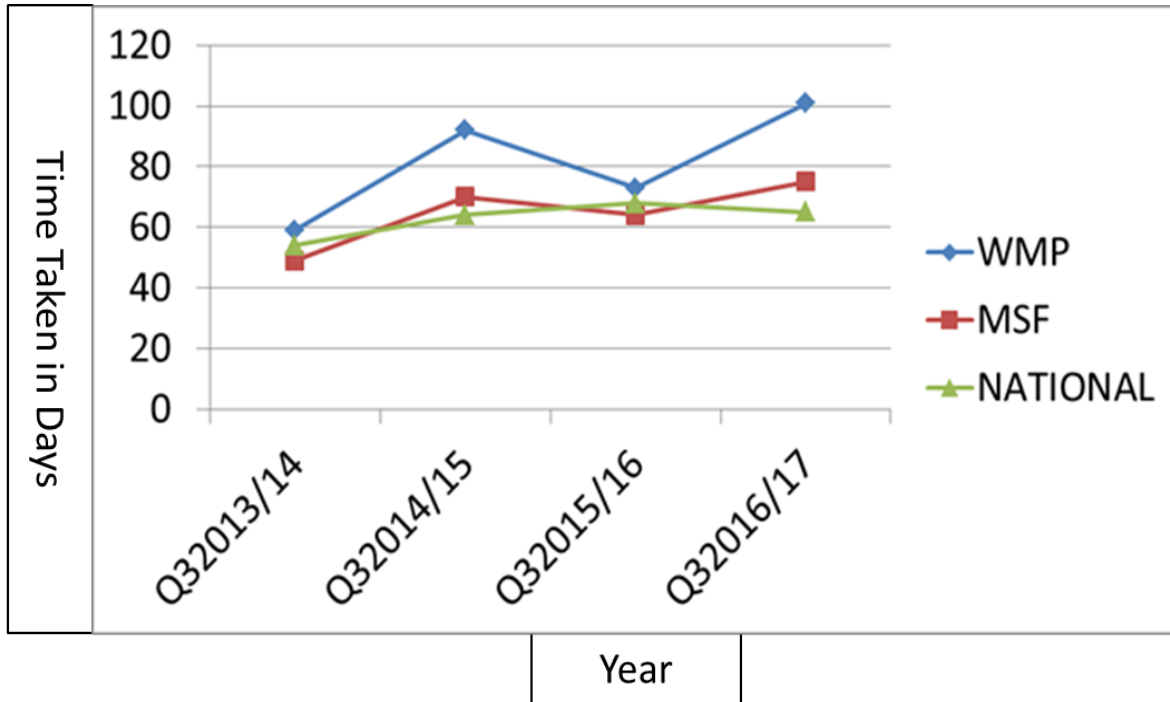


Fig 11 Local Resolutions.

22. WMP resolve between 17 and 20% of all allegations compared to 40%+ for both MSF and national.

Local Investigations

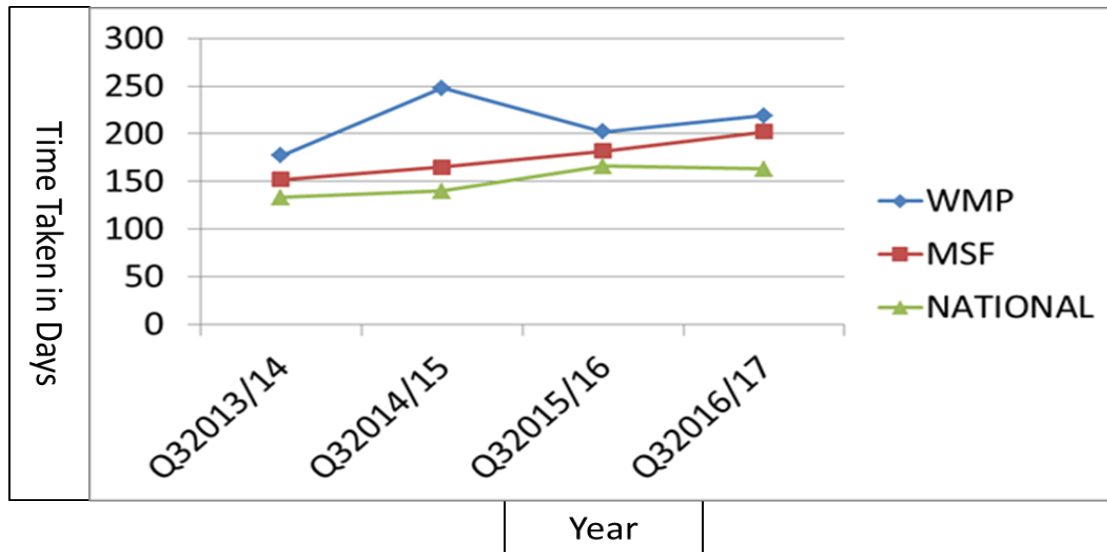


Fig 12. Local Investigation.

23. Over the last 3 years WMP has become more aligned with other forces, following a peak investigation time in 2014/15 coinciding with changes in Police Regulations. These changes impacted upon immediate service delivery, but it is clear from the results above that, as the changes have embedded performance has improved.

24. Lengthy investigations can be caused by a number of reasons, the primary being:

- A. Sub judice rule. Where some element of the complaint impacts upon a formal criminal justice matter, e.g. where a complainant of assault is charged with a robbery offence, or a serving officer is charged with criminality the judicial process must always hold primacy. As such a complaint cannot be investigated as there is a risk that it might prejudice the higher proceedings. This can cause delays of months or even years.
- B. Complexity of investigations. This can relate to the depth or breadth of the investigation. An example would be a harassment complaint, or discrimination, where the matter is not easily proven or otherwise and the complexity is compounded by Regulatory timescales. Alternatively there may be several allegations within 1 complaint and all bar one of those allegations may have been finalised, but the single outstanding matter will hold the complaint in a live state.

Supervised Investigations

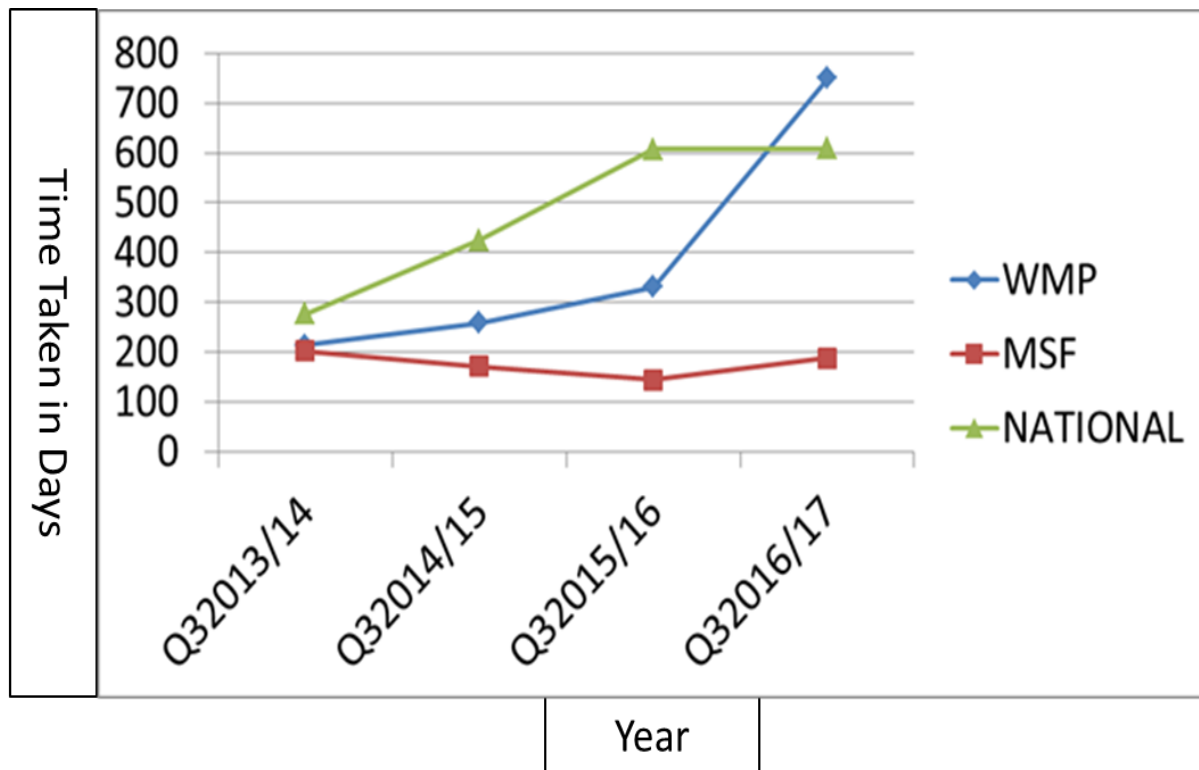


Fig13. Supervised investigations.

25. Only 6 forces nationally retain IPCC supervised cases. The small number of supervised WMP cases are subject to criminal proceedings.

RESULTS OF INVESTIGATIONS

26. Investigations may be finalised by 1 of 3 qualifiers. Case to answer, no case to answer or de-recorded.

27. The below tables demonstrate the volume for each closure for the past 3 years.

28. No case to answer will see no further action, where case to answer may be dealt with by various routes discussed below.

2016/2017 Results of all investigation types.

1. Case to Answer	170
De Recorded	1
09 Discreditable Conduct	1
No Case to Answer	95
Grand Total	266

Fig14

2015/2016 Results of all investigation types

Case to Answer	224
De Recorded	12
No Case to Answer	147
Grand Total	383

Fig15

2014/2015 Results of all investigation types.

Case to Answer	218
De Recorded	5
No Case to Answer	154
Grand Total	377

Fig16

OVERVIEW OF MISCONDUCT PROCEEDINGS

29. The below tables show the number of completed investigations into conduct matters over the last 3 years and the result as to whether or not there is a case to answer. Note that the number recorded and the number investigated will not match up, as investigations frequently carry across the reporting periods.

30. Note that misconduct meetings are the result of matters assessed as misconduct, i.e. falling below the standard expected, and more serious than management action, but insufficient to see someone dismissed. The available sanctions are management advice, written warning and final written warning.

31. Conversely, misconduct hearings are for matters that are gross misconduct, more serious, and could see the officer dismissed. This includes Special Case Hearings where the CC hears the case where there is a incontrovertible evidence and the matter need not be heard by a panel.

Volume of Misconduct Meetings

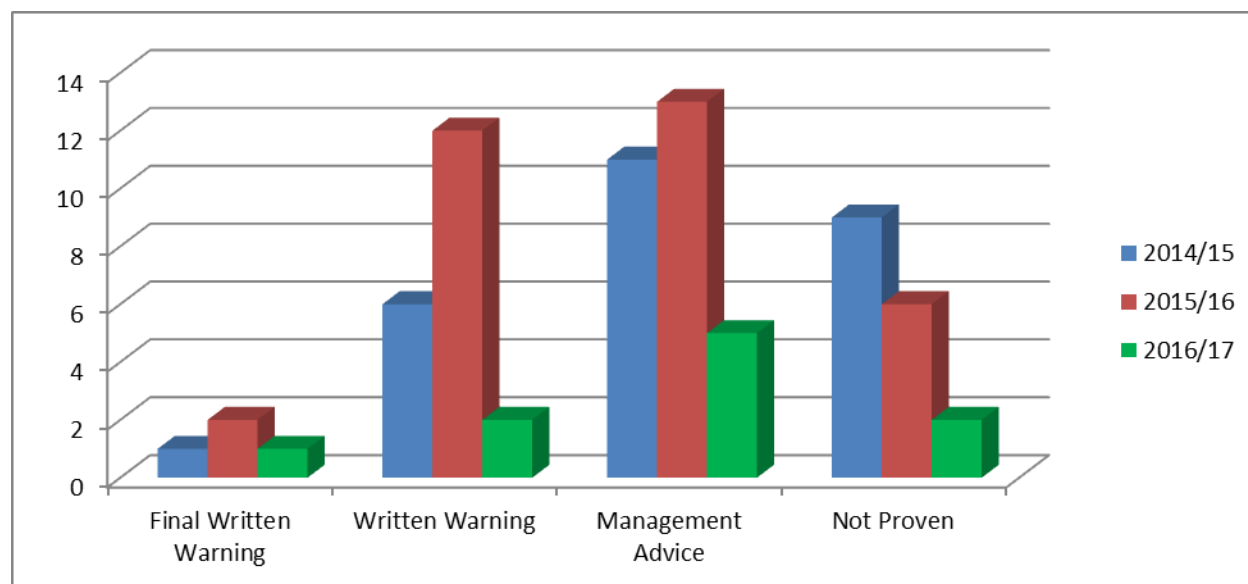


Fig17. Most common outcomes are management advice and written warning. Written warnings lie on file for 12 months (extendable) and further misconduct in that time will take account of warnings.

32. It is clear from the above that fewer meetings have been conducted in this financial year, by virtue of fewer matters being progressed to this level, due to decreased volume of

complaints, and more values based decision making. There has also been a concerted effort to progress the more complex and severe cases within the hearing table below.

Volume of Misconduct Hearings

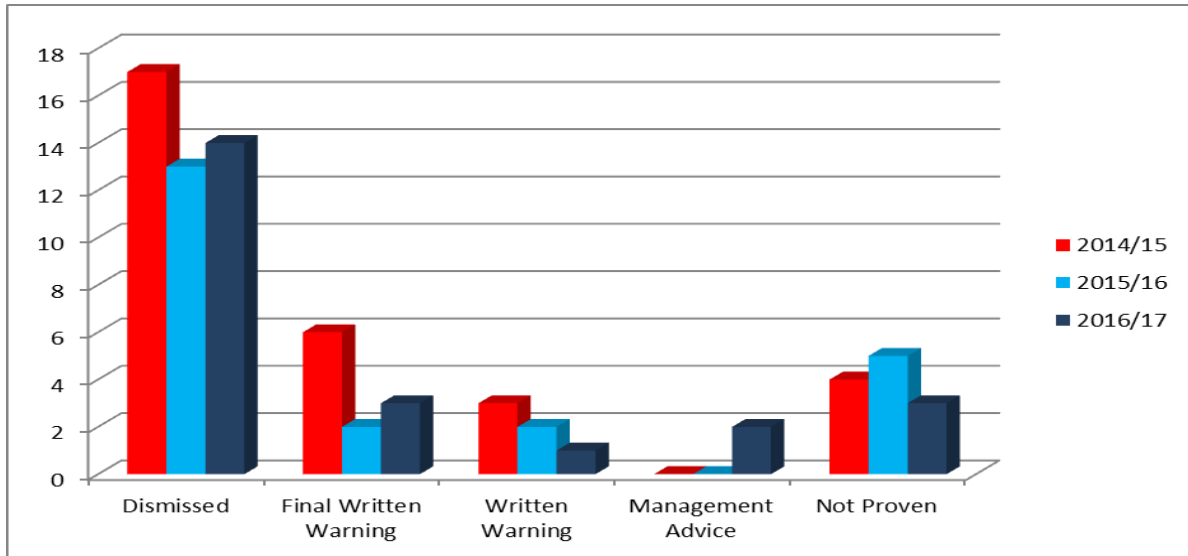


Fig18 The most common outcome of Misconduct Hearings is dismissal.

33. The above table shows that with MST have progressed an analogous number of hearings to previous years despite having to change venue 4 times in the period, due to Lloyd House not being open.

RESULTS OF APPEALS 2016/17

Force Appeals.

Findings of investigation		111
Live		37
Not Upheld		53
Not Valid		1

Upheld	18
Upheld - NFA	2
Outcome	13
Live	7
Not Upheld	4
Not Valid	2
Provision of information	35
Live	11
Not Upheld	16
Upheld	6
Upheld - NFA	2
Grand Total	159

Fig 19. Of 159 appeals received in force, 73 (45.9%) were not upheld with 55 (34.59%) remaining live.

34. WMP now uphold a far greater number of appeals. These are largely appeals against local investigations.

35. Results for the last two years were 149 of which 89 (60%) were not upheld and 110 of which 85 (77.2%) were not upheld respectively.

IPCC Appeals

36. As can be seen from the below, the force now uphold more appeals than the IPCC. The bulk of total appeals are against the findings of investigations and this is generally where a dissatisfied member of the public is even more dissatisfied when their complaint is not deemed to be founded.

Count of IPCC Decision		Column Labels			Grand
Row Labels	Appeal Against Findings	Findings of investigation	Provision of information	Total	
Not Upheld	3	28	5	36	
Not Valid		3	2	5	
Upheld	1	9	3	13	
Withdrawn (blank)		1	1	2	
Grand Total	4	41	11	56	

Fig 20.

COUNTER CORRUPTION

37. Recent results from the PSD Counter Corruption Unit have included the nationally reported arrest and conviction of a serving police officer for threatening to kidnap WMP staff for terrorist purposes and the recent arrest and charge of 2 serving officers for conspiracy and drugs offences.

UPDATE ON THE WORK OF THE VETTING SERVICE

Vetting Demand	
Staff RV	77
Staff MV	28
Staff Aftercare	4
Specials RV	5
Police Officer RV	38
Transferee	20
Police Officer MV	65
Police Aftercare	26
NPPV Level 3	70
NPPV Level 2	167
NPPV Level 1	70
Career Break	3

Total	573

Fig21.

38. NB since the last report vetting has seen an investment of a further 7 staff which has increased timeliness significantly from months to weeks (average reduced from 3 months to 14 days). In house vetting takes approximately 4 days to be completed, out of force and CTU/Special Branch checks currently take 2 weeks. This uplift was projected to reduce the vetting backlog while also catering for the HMIC compliance piece.
39. A more robust appeals process has recently been implemented that responds to vetting appeals more quickly and at the appropriate level.
40. The vetting backlog of 520 cases has effectively been eradicated.
41. Vetting reject approximately 16% of all external applicants (reduced by approximately 30% of that figure following appeal).

Referrals to IPCC

<u>Previous Year</u>				<u>Current Year</u>			
<u>Q1</u>	<u>Q2</u>	<u>Q3</u>	<u>Q4</u>	<u>Q1</u>	<u>Q2</u>	<u>Q3</u>	<u>Q4</u>
90	89	88	51	84	67	59	

Fig 22.

42. The number of referrals has decreased broadly in line with the decrease in total volume of complaints.

DISPROPORTIONALITY IN MISCONDUCT

43. The Force Intelligence Department, in partnership with PSD, conducted a 2 part review of disproportionate trends within the professional standards process. The first part was quantitative and mined PSD data systems to provide hard results. Consultation meetings were then conducted in order to develop hypotheses as to why disproportionality might be demonstrated.
44. In response to the report, PSD now hold a scrutiny group with staff associations and advice and representations are taken from staff associations regarding proceedings relevant to their expertise (where the subject officers are willing to have this). Hearings have been downgraded following advice from staff associations regarding cultural

sensitivities, vetting decisions have been reviewed with staff association support and staff associations have been invited to attend hearings in support of their members.

45. We are regularly reviewed by independent bodies such as HMIC, IPCC and the Office of the PCC and act upon recommendations. We have been approached by another force to engage in an independent academic study examining disproportionality in police misconduct proceedings and we are keen to participate.

BODY WORN VIDEO

46. Data on the use of body worn video in misconduct investigations is still in development as we roll out kit across the force. We are in the process of establishing a mechanism for capturing this.
47. Within PSD it has been noted that Body Worn Video can speed our investigative process by approximately 40%. This is due to the evidence usually being incontrovertible, or at least very strong, and can be used to either prove or disprove an allegation without extended investigation.

RESPONSE TO PREDATORY BEHAVIOUR

48. WMP are currently working with other forces and the National Police Chiefs Council to identify best practice regarding the response to sexual predation within the police service. Various tactics are available and the full range of tactics will be integral to the approach of PSD.
49. Three relevant cases have been referred to the IPCC in the relevant period, two of which are complaints and one a conduct matter.
50. PSD are currently developing new criteria for flagging within Centurion, in order to more effectively chart this type of corruption so it can be correctly classified.
51. Of the cases reported, the IPCC have taken none of these reports as independent and all have been returned for local investigation.
52. It is worth note that, in this period, an officer has been subject to a public Special Case Hearing and dismissed by the Chief Constable for sexual corruption.

David Thompson
Chief Constable