



STRATEGIC POLICING AND CRIME BOARD

5 December 2017

**UPDATE ON THE WORK OF THE PROFESSIONAL
STANDARDS DEPT**

PURPOSE OF REPORT

1. This report is to provide an update to the Strategic Police and Crime Board (SPCB) on the work undertaken by the Professional Standards Department (PSD) of West Midlands Police (WMP).
2. This report provides statistics and commentary regarding the number of complaints and conduct matters dealt with by WMP, the type of allegations to which these relate and the number of both that have been referred to the Independent Police Complaints Commission (IPCC). The report further details, 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 West Yorkshire Police and also national performance. (N.B. the distinction between Complaints and Allegations, as one 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 return is for Quarter 2 (Q2), between 01/04/17 and 30/09/17. The report was published on the IPCC website on 07/11/2017 and is, therefore, considered to be current. It is expected that for future reports the analyst will be able to provide data up to the date of request and independent of IPCC reports. This will need to be tested however to ensure that there are no significant discrepancies, and if there are, how best we reconcile them.
4. The latest IPCC Bulletin is attached as an appendix to this report.

5. The Board is asked to note that PSD is currently undergoing a period of concept testing, whereby we are modifying the processes through which we respond to public dissatisfaction and internal conduct. These process changes have been driven by the Senior Leadership Team in response to results from a detailed Best Practice Review conducted with the MSF. The goal of the new process is to resolve dissatisfaction at the earliest opportunity and thereby regain trust from the affected parties, whilst ensuring that we maintain organisational alignment from our staff. This will assist in a wider force journey towards becoming a learning organisation rather than a punitive one and has seen positive results in other forces.
6. The PSD review is divided into two phases, the first of which will see the proposed re-design of the Counter Corruption Unit brought before the Executive team in 2017. The overt side of PSD is currently going through a period of concept testing, where a new structure and process is being utilised to baseline performance and assess what resources would be needed, and whether or not it would be effective, to absorb all complaints into a central function.
7. This work is being conducted in conjunction with the Fairness in Policing team in order to ensure that our mission is both organisational (primarily internal) and procedural (primarily external) justice led.

VOLUMES OF DISATISFACTION AND STAFFING.

8. Figure 1 below demonstrates the current staffing for WMP. The total FTE (posts) equates to 10202.1 (+174 Special Constables) and total strength equates to 10773 (headcount). This is a staffing increase against Q2 2016 for comparison, though most of this is new recruits, some of whom are not yet deployed to their roles. Similarly, some of our other roles are not public facing, and as such are less likely to be subject to public complaint.

Rank / Staff Type	Strength (FTE)	Strength (Headcount)
Police Officer Total	6565.55	6707
Police Staff	3239.72	3476
PCSO	396.83	416
Special Constable		174
Total	10202.1	10773

9. The below charts show the total number of complaints and allegations received up until September 30th 2017 (Q)2, compared to the last 3 years data. While complaints recorded per quarter have fallen slightly over time, with some noticeable peaks and troughs, there is a more marked fall in the number of allegations recorded. Please note the distinction between complaints and allegations; each recorded complaint (representing a dissatisfied member of the public) may be made up of more than one allegation. E.g. one person makes a complaint that an arresting officer was rude, too aggressive and also stole money. That could amount to 3 separate allegations within 1 complaint.

Tables demonstrating total volumes of complaints and allegations 2014-2017.

	2014	2015	2016	2017
Number of Cases Recorded	535	616	478	425
Number of Allegations Recorded	1078	1336	1225	802
Number of Finalised Cases	342	566	514	199
Number of Finalised Allegations	1095	1094	1091	586

Top 5 Most Common Allegations by Year

	2014	2015	2016	2017
Other Neglect or Failure in Duty	279	412	369	294
Incivility, Impoliteness and Intolerance	154	152	152	85
Other Assault	140	150	132	69
Oppressive Conduct or Harassment	75	83	-	57
Lack of Fairness and Impartiality	65	84	89	-
Mishandling of Property	-	-	75	40

N.B. Mishandling of Property in 2014 & 2015, Oppressive Conduct or Harassment in 2016 and Lack of Fairness and Impartiality in 2017 have received allegations, but have been omitted due to not ranking in the most common five allegations

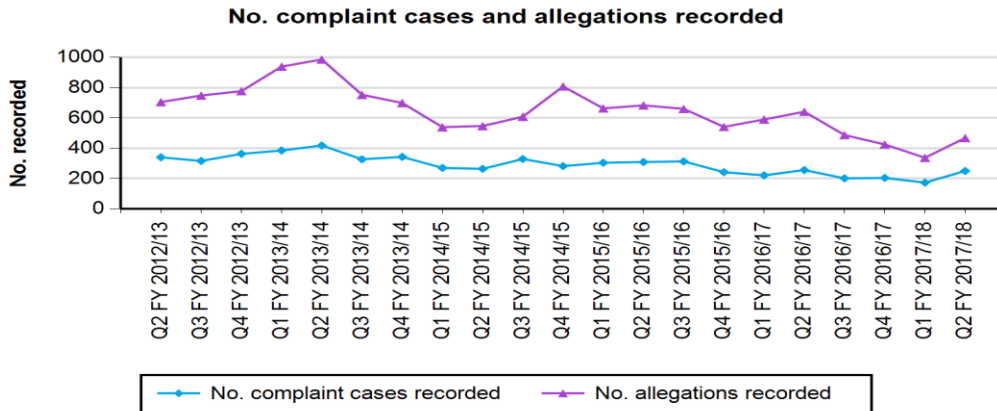
Details of Case Outcome by Year

	2014	2015	2016	2017
Locally Resolved	92	127	103	53
Upheld	58	78	72	19
Substantiated	0	0	0	0
Not Upheld	145	263	259	67
Unsubstantiated	0	0	0	0
Withdrawn/Dispensation/Disapplication/Discontinuance	45	95	78	32
Derecorded	1	2	1	2
Special Requirements	1	0	1	26
TOTAL	342	565	514	199

Details of Allegation Outcome by Year

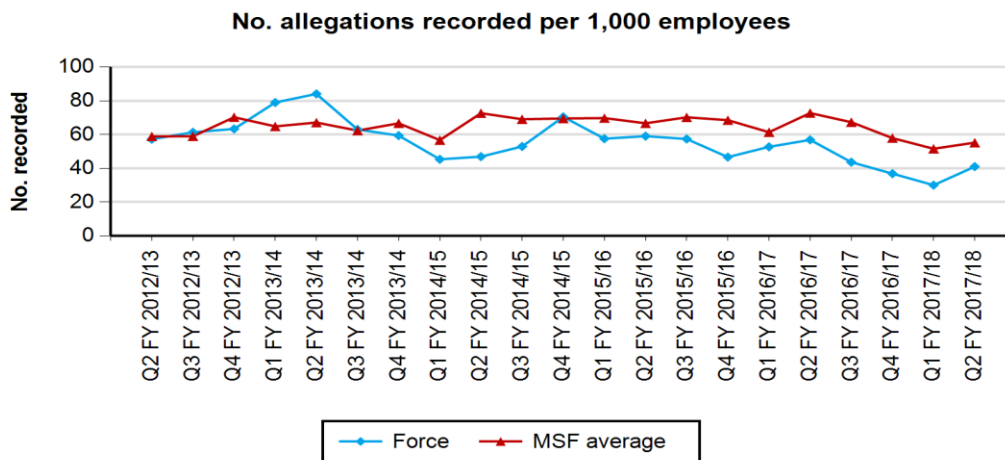
	2014	2015	2016	2017
Locally Resolved	205	196	175	160

Upheld	133	113	99	28
Substantiated	0	0	0	0
Not Upheld	604	630	661	194
Unsubstantiated	0	0	0	0
Withdrawn/Dispensation/Disapplication/Discontinuance	151	152	142	95
Derecorded	1	3	3	2
Special Requirements	1	0	11	107
TOTAL	1095	1094	1091	586



Showing the decline in complaints and allegations. Note that the average of Q1 and Q2 produces the “year to date” total from IPCC reports.

- The institution of the prevention and intervention team has assisted in driving complaints and conduct matters down, by disseminating learning and best practice and helping local Appropriate Authorities to develop local strategies for reducing complaints. Coupled with an on-going series of training inputs from PSD, it is expected that complaints and conduct matters will continue to fall.



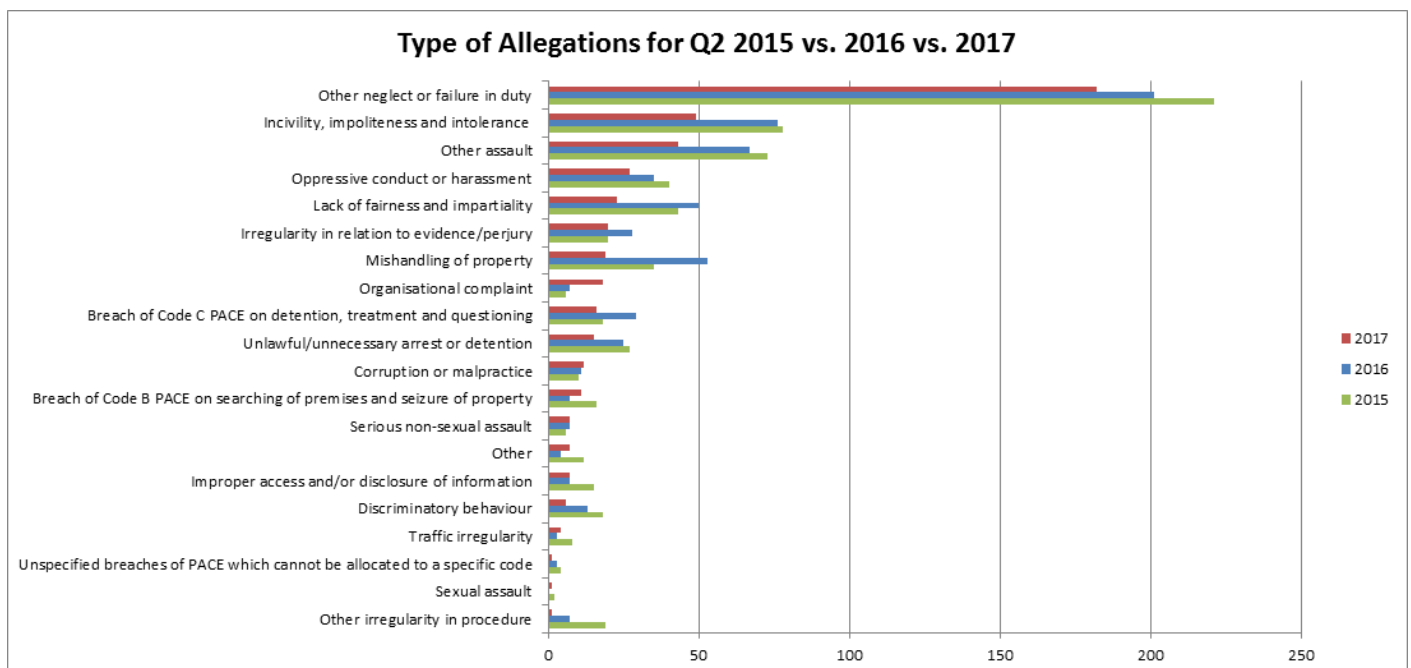
Contrasting WMP with MSF and number of allegations per 1000 employees.

- WMP records fewer allegations per 1000 employees than the MSF group, however the frequency remains in virtual parallel with no significant alteration in trends.

FREQUENCY OF ALLEGATIONS RECORDED ACCORDING TO TYPOLOGY

12. Allegations are categorised according to type, in order to allow for improved analysis of trends. Fig 3 below demonstrates the overall number of allegations, divided to type, and their volume over the last 3 years. The 3 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.

13. 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 while numbers are low the reputational impact is extremely high.



Allegation type and frequency

NUMBER OF COMPLAINTS NOT RECORDED AND THE REASONS FOR NOT RECORDING

14. There have been 26 cases non-recorded between Q1 and Q2 2017. This is comparable to 2016. The decision to not record must be made by an Appropriate Authority. The importance of this decision is illustrated by the fact that the role of appropriate authority cannot be delegated to a rank below Chief Inspector (or police staff equivalent). The appropriate authority must record a complaint unless:

- 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

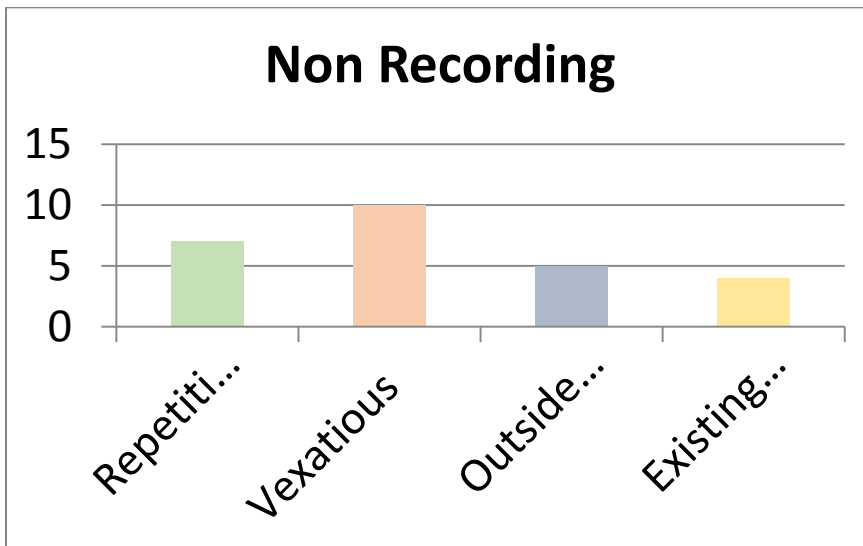
The complaints that are specified by the Police (Complaints and Misconduct)

Regulations 2012 are those where the appropriate authority considers that:

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.

15. Of these, the primary reasons are that the complaints are either vexatious (abuse of process) or repetitious. These non-recording decisions are relatively infrequent and, as outlined above, subject to being made by senior officers or staff.



Volumes non- recorded and reasons for this.

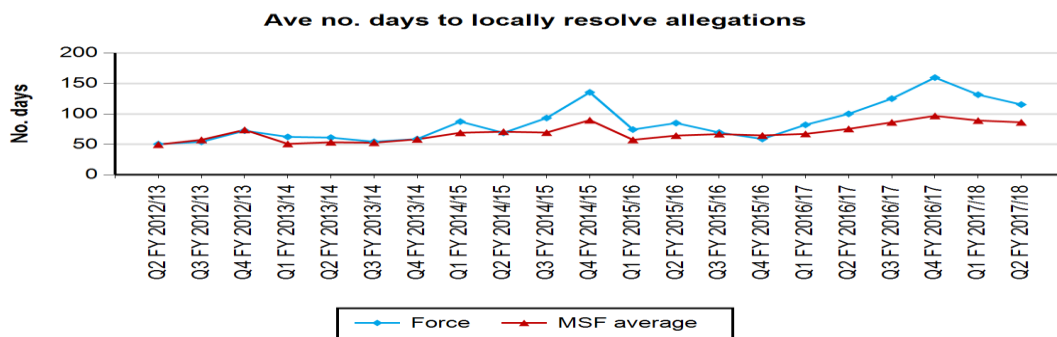
16. Vexatious - frequently related to abuse of process e.g. complaining about an investigative result, where this is appropriately dealt with via appeal, not further complaint. This is different to “fanciful” which is rarely used, but refers to a complaint that is undeniably fabricated.

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

- 18. 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.
- 19. Not within the Act - there is no grounds for the complaint, or it is forbidden within primary legislation.
- 20. Current complaint – live repetition
- 21. Details - Without details of a complainant or an affected party we can't record a complaint

TIMELINESS OF INVESTIGATIONS

- 22. There are several aspects of misconduct investigation that are subject to scrutiny regarding timeliness. The first area is local resolution, which is generally the swiftest and most satisfactory resolution to dissatisfaction. Wider investigation of misconduct is also subject to scrutiny and finally supervised investigation and managed investigation. The latter 2 categories relate to IPCC involvement and direction, but supervised matters are few and far between (and decreasing) and there are no current managed cases as this mode of investigation is no longer used.



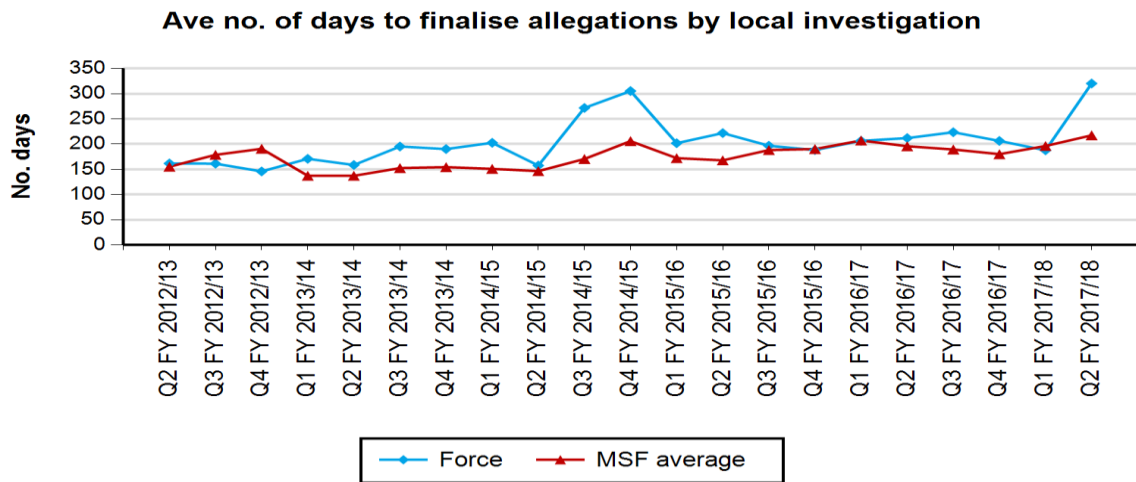
Average number of days to locally resolve lower level complaints

- 23. Local resolutions are for matters that are unlikely to result in criminal or misconduct proceedings and are, therefore, at the lower end of severity. LR is generally the most successful resolution to public dissatisfaction, where used appropriately, as it responds quickly and aims to recover service. Historically WMP resolve between 17 and 20% of all allegations compared to 40%+ for both MSF and national. WMP, though locally resolving fewer complaints, receive positive feedback on the ethical manner with which we respond to public dissatisfaction from IPCC and HMIC.
- 24. Most LR's have historically been delivered on NPU/Department by local AA's, for whom this forms a small part of their over-all workload and is not their primary

focus. Increased volume in the central hub of PSD enhances the speed of this process.

25. One of several process changes within PSD has involved the appointment of a Sergeant within the department to lead on local resolutions, and the success of this trial has led to the “concept testing” process changes that have shifted the bulk of PSD resources towards proportionate investigation and local resolution, as opposed to towards the lower volume of serious cases. The concept testing phase will run through to March and has been developed from reviewing best practice across the country.

26. Note that between Q1 and Q2 PSD have LR'd 43 cases, compared to 11 in the same period in 2016. This will have an impact on timeliness, which is likely to be demonstrable within the end of year figures.



Timeliness of local investigations.

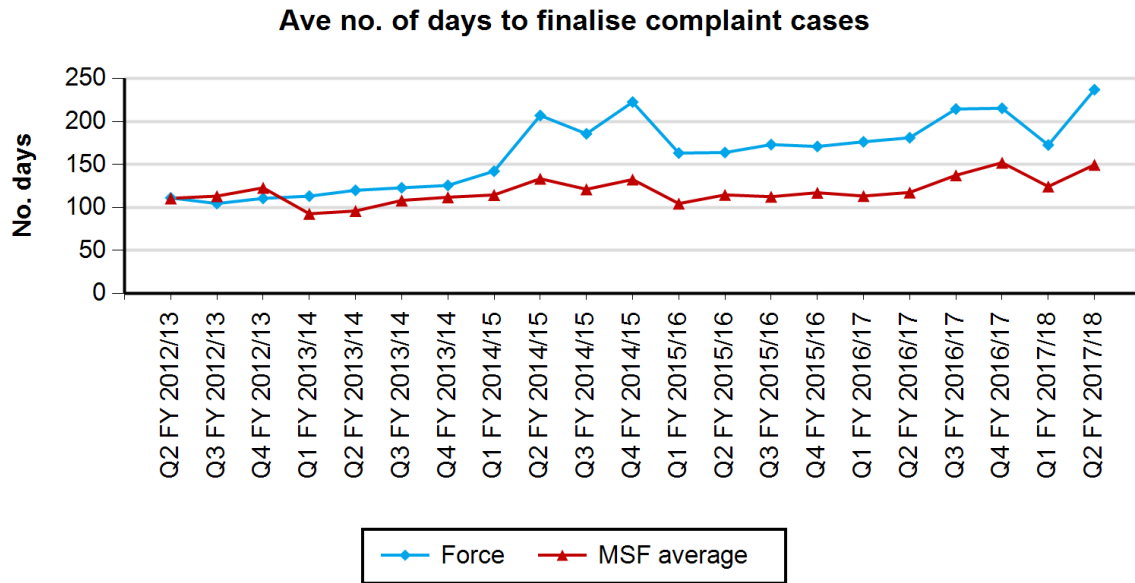
27. It is apparent from the above that WMP has historically been slower than the MSF to investigate matters subject to local investigation, but this discrepancy had been largely eradicated by Q1 2017. The spike in Q2 is due to a few remaining outlying cases and some data cleansing issues. The newly appointed PSD analyst has discovered some issues within the Centurion system that has meant that some cases which have been filed have continued to show as open, which has lengthened the average investigation time. As such, these matters now being rectified a change in Q3 is expected.

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

29. 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.

30. 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.



Finalisation of ALL cases other than independent IPCC investigations.

31. This table refers to all finalisations, including supervised cases. It can be seen that generally WMP PSD is slower than the MSF, but the table demonstrates that this is tracking in parallel.

32. The board is requested to note that this is an area of focus for PSD and the aforementioned changes to process and reallocation of our resources, should impact on this in the next reporting period, and certainly by the end of year report.

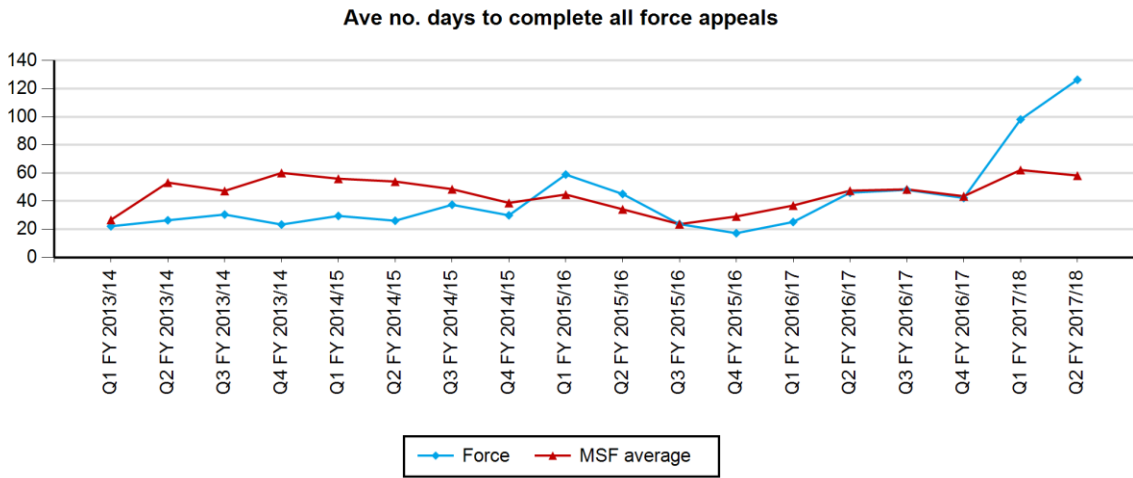
OUTCOMES AND TIMELINESS OF APPEALS.

33. WMP appeals are all dealt with by a singular Appropriate Authority within PSD who also leads the Counter Corruption Unit and performs assessments on Conduct allegations. This AA prioritises incoming conduct matters as they are dictated by regulatory

timescales, but more importantly because they remain in the secure and preserve phase so evidence should not be lost. This AA is also the appeal body for matters that are not subject to special requirements, i.e. low level complaints and LR's. This role is a single point of failure however, and when abstracted to the CCU role there is little resilience for progressing appeals as the AA is remotely based, hence the spike in Q's 1 and 2 following the retirement of the resilience AA.

Force appeals upheld and completed					
% force investigation appeals upheld	19%	4	31%	13%	18%
% force local resolution appeals upheld	50%	2	0%	21%	14%
% force disapplication appeals upheld	0%	0	50%	9%	6%
% force discontinuance appeals upheld	0%	0	0%	0%	0%
Ave number days to complete all force appeals	110		40	62	66

Appeal results.



Average time to complete force appeals.

34. The spike occurring in 2017/18 correlates with the retirement of the resilience AA, and an increase in conduct related assessments where the AA initially assesses matters and requests further fact find. Where these matters are then returned to the AA this results in double the work. Please note that this means that fewer of the lower level conduct matters are escalated to the more serious levels. Our meetings and hearings however remain largely unchanged, demonstrating that the correct matters are still being escalated and we are responding to conduct appropriately.

35. Note further that the reduction in recorded conduct matters is matched by a significant increase in the number of MI's recorded where fact find is required. The workload within

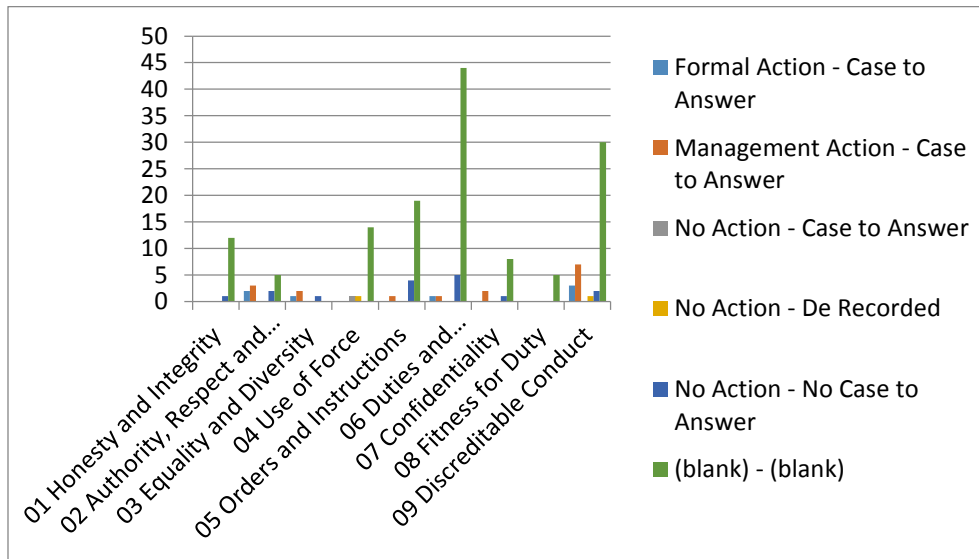
PSD has not shrunk significantly, we have just applied our process differently to prevent inappropriate investigations into the lowest level matters.

INTERNAL CONDUCT MATTERS.

36. Fig 11 shows the number of internally generated conduct matters that have been investigated in the period.

Number of Conduct Matters Cases by Status	
Current Status	Number of Allegations
Finalised	31
Live	141
Sub Judice	7
Grand Total	179

37. The below graph demonstrates the most common typology for internally raised conduct matters, along with the broad sanctions if any. Of note is the detail that duties and responsibilities is the highest driver of conduct matters, with discreditable conduct, orders and instructions, and use of force being significant also. Most of these cases (marked green) are on-going with no outcome as yet.



Conduct volumes according to typology

38. The Whistleblowing policy is now owned by People and Organisational Development and is in the process of being enacted across the force. In support of

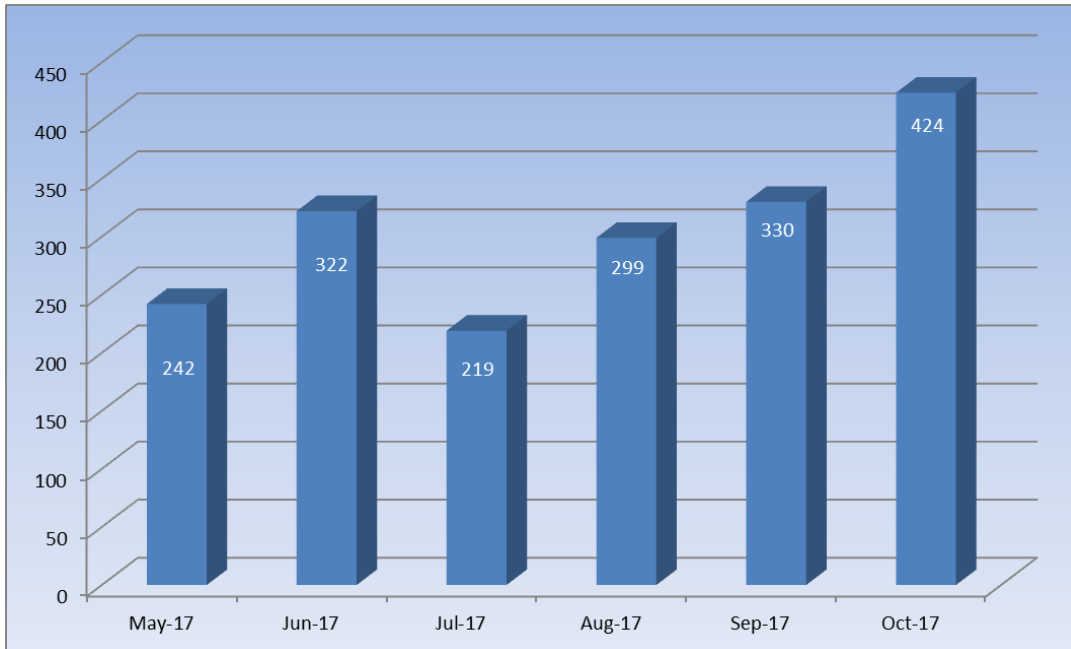
the policy the practical implementation of enhanced welfare provision and training is already in hand through L and D prior to the policy being signed off. Test cases have already been utilised where enhanced measures through the new Occupational Health and Employee Support being delivered.

COUNTER CORRUPTION UNIT UPDATE

39. Live CCU investigations cannot be discussed in a public forum by virtue of the sensitivity of both the investigations and the tactics employed. We report, therefore, on one significant case whereby CCU successfully convicted 2 officers for conspiracy to supply class A drugs, which attracted significant sentences for the officers and has seen widespread expressions of trust from the public.
40. The impact of such cases cannot be over-stated as corrupt officers have the capacity to impede criminal investigations against their associates, to leak information and tactics that result in our basic methodologies being undermined and can shatter public confidence. By proactively investigating and capturing such officers CCU protect the public from betrayal by our staff, save the force significant cost from failed investigations into serious and organised crime and safeguard our reputation by being seen to root out corrupt officers.

VETTING UPDATE.

41. The vetting team has grown to match significant recruitment demand, and to progress the re-vetting of the force. The newly enhanced team is now responding at speed and clearances per month are generally improving.



Volume of applications progressed per month.

42. NB since the last report vetting has seen an investment of a further 2 members of 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 over 4 years while also catering for the HMIC compliance piece.
43. A more robust appeals process has recently been implemented that responds to vetting appeals more quickly and at the appropriate level.
44. Vetting are working to address the HMICFRS recommendation regarding re-vetting all staff to the base level. This is a significant piece of work that sits on top of the urgent priority regarding vetting new staff. The most risk heavy departments are being vetted first (PPU, Firearms etc) with the roll out across force being gradual.

Current Split of Applications		
Figures accurate as of 02/11/17 0800hrs		
Total Pending	1508	
Aftercare	883	
Standard Vetting	625	
Breakdown of Standard Vetting	Police Officer RV	132
	Transferee / Rejoiner	6
	Staff RV	86
	Police Officer MV	33
	Staff MV	16
	Career Break	0
	Special RV	0
	NPPV1	131
	NPPV2	201
	NPPV3	20
	Total Standard Vetting	625

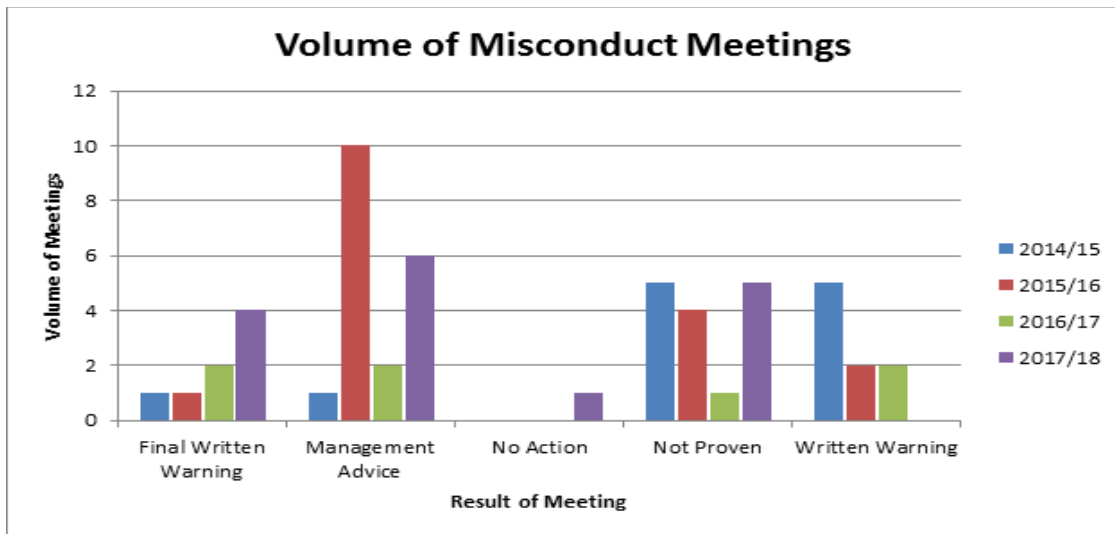
Total vetting applications.

OVERVIEW OF THE MISCONDUCT PROCEEDINGS CONDUCTED WITHIN THE FORCE INCLUDING:

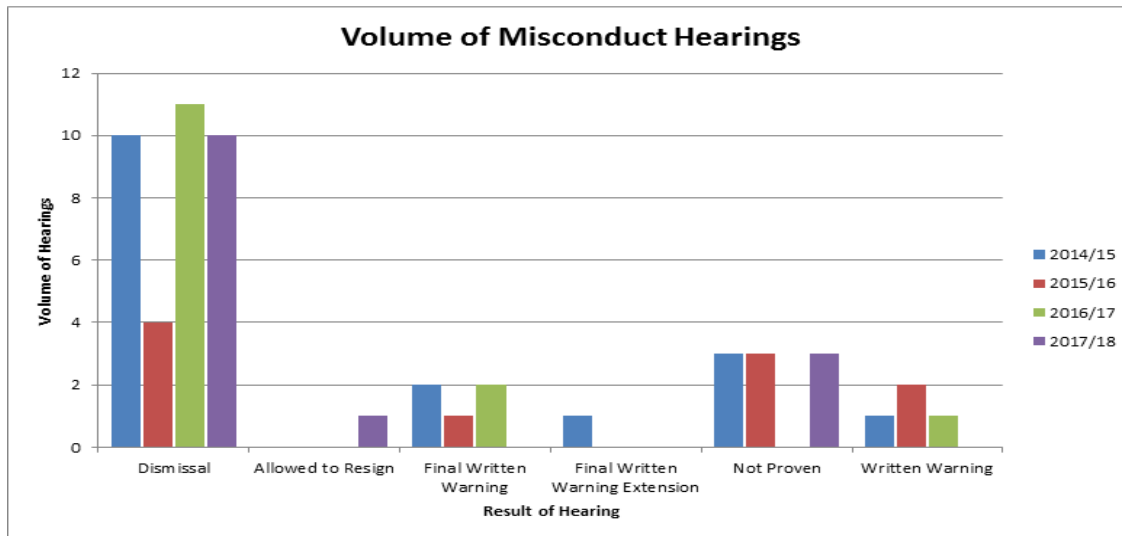
45. The below table demonstrates the number of cases deemed to have a case to answer in the last 3 years. There is a noticeable fall in 2016 and 2017 and this is thought to be due to an increased focus on driving ethical learning outcomes rather than purely punitive outcomes. This is in line with IPCC guidance and the Taylor reforms, and meets the future direction of the Policing and crime act 2017.

Number of Investigations with Case to Answer					
	2014	2015	2016	2017	Grand Total
Q1	71	70	34	11	186
Q2	53	64	34	11	162
Q3	17	11	10		38
Grand Total	141	145	78	22	386

46. The below tables show the volume of meetings and hearing and the outcomes at each. It is noticeable in meetings that the most common outcomes are at the lower end of the scale, while at Hearings the most common sanction is dismissal. This demonstrates further that more focus should be placed on responding to low level issues through learning and performance rather than through misconduct proceedings.



47. As can be seen from the above, where matters progress to Misconduct meeting, Management Advice, the lowest sanction where conduct is found, is the most frequent outcome, with not proven being a close second and final written warning, the highest possible sanction being a close third. With only 16 cases as a sample size however, it would only take a small number of cases with any outcome to change this.



The above graph demonstrates the numbers and results of Misconduct Hearings. Dismissal remains the most likely outcome. This demonstrates that the cases that reach hearing are generally the right ones, and reinforces the process change whereby fewer matters are recorded as Conduct Matters prior to being appropriately examined.

UPDATE ON WORK TO ADDRESS DISPROPORTIONALITY

48. 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 data mined PSD systems to provide hard results. Consultation meetings were then conducted in order to develop hypotheses as to why disproportionality might be demonstrated. The data capture was then assessed against these hypotheses in order to prove or disprove.
49. In response to the report PSD now have a scrutiny group from 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.
50. WMP are regularly reviewed by the independent bodies such as HMIC, IPCC, OPCC and act upon recommendations.
51. Feedback from staff associations has been that the work conduct in PSD has gone a long way towards addressing concerns and the working relationship is now significantly enhanced.

52. The level of satisfaction amongst staff associations is most clearly demonstrated by the fact that the Head of Department has been invited to a national conference by the Association of Muslim Police to speak on how best to address disproportionality in misconduct proceedings.

BODY WORN VIDEO

53. The data on this is not yet clear, as there is no mechanism for capturing it.

54. Within PSD it has been noted that BWV can speed our investigative process by approximately 40%, which may be reflected by our decreasing investigation times. 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.

55. Further data is required.

NUMBER OF REFERRALS TO THE IPCC. INCLUDING REGARDING ABUSE OF AUTHORITY FOR SEXUAL GAIN

IPCC Mode of Investigation	Number of complaints
Force Deal	14
Independent	52
Local	80
Grand Total	146

56. Figure 17 shows the volume of overall referral for Q1 and Q2, with most cases being either declared as a local investigation, or for the force to deal with as it sees fit. Effectively a decision for force to deal means that an investigation may not be required and the matter can be immediately filed.

57. There have been 2 referrals to the IPCC regarding abuse of authority for sexual gain.

COMPLAINTS REFORM: 2017 POLICING AND CRIME ACT

58. The Policing and Crime Act has brought about a number of changes to the police complaints system aimed at improving public confidence, and making it more transparent and more efficient. This update is concerned with the enhanced role for police and crime commissioners which will see them having to choose between one of

three models for enhanced involvement, with current start date of June 2018 (we are awaiting confirmation of the start date).

59. APCC Lynnette Kelly has led this work on behalf of the Commissioner, and the work has been divided into two stages. The first stage considered the three options available to PCCs, and the second stage is ongoing, to consider the future delivery model.

Stage One – The three options

1. The Act allows PCCs to make a choice between three possible models:

Model	Mandatory / Opt-In	Involves
One – Oversight and Review Body	Mandatory	Explicit statutory responsibility for performance of complaints system locally, and act as Review (appeal) body for those reviews that would currently be heard by chief constables.
Two - Receiving & Recording	Opt-In	(Model 1 and 2) Responsibility for initial part of complaints handling process, including: <ul style="list-style-type: none"> • ability to resolve issues outside of the complaints system. (the customer service resolution) • duty to make initial contact with complainant to understand how best their issue might be resolved. • The recording of complaints.
Three - Single Point of Contact	Opt-In	(Models 1 and 2 and 3) Responsibility for all statutory duties regarding contact with complainant throughout the process.

2. We have considered the three models, looked at the processes currently employed by WMP Professional Standards department and also considered the plans being pursued by other PCCs across the country. Following full consideration of the potential advantages and risks associated with each model, the Commissioner has decided to choose Model One.

3. Model One consists of two elements:

- I. Explicit statutory responsibility (s22) to hold the Chief Constable to account for the performance of complaints system locally, and
- II. Review body for those reviews that would currently be heard by chief constables

Stage Two – Future Delivery Model - *Implementation of Model One*

4. PSD currently averages between 150 – 200 appeals per year and following implementation these appeals will become the responsibility of the Commissioner. In addition, the Act introduces an explicit duty for PCCs to hold the chief constable to account for the exercise of the chief constable’s functions under Part 2 of the Police Reform Act 2002 in relation to the handling of complaints.

We are looking at ways of fulfilling these duties on behalf of the Commissioner, including options to use existing staff or engage new. The budgetary considerations for 2018/19 will include a transfer of resources from PSD to the Commissioner's office in order to reflect the transfer of responsibilities. Plans can be finalised once the implementation date has been announced by central Government.

FINANCIAL IMPLICATIONS.

There are no direct financial implications to the force or the OPCC from this report.

LEGAL IMPLICATIONS.

The sole legal implications arising from this report relate to the changes to the Policing and Crime act 2017 which offer the OPCC certain options for increased governance of the Complaints and Misconduct Process.

The PCC will have 3 options for consideration, but the national direction of travel indicates that PCC's are accepting the role of addressing force appeals.

RECOMMENDATIONS.

It is recommended that the OPCC consider this report.

Chief Supt Mark Payne
Professional Standards Dept