



STRATEGIC POLICING AND CRIME BOARD

1st March 2016

Professional Standards Quality of Service

PURPOSE OF REPORT

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

BACKGROUND

2. This report provides statistics and explanation regarding the number of complaints dealt with by WMP, the type of allegations to which the complaints relate and the numbers of complaints that have been referred to the Independent Police Complaints Commission (IPCC). The report details the outcome of the cases, the timeliness of investigations, results of appeals and outcomes of proceedings. This report aims to compare WMP data with other forces, where data is available.
3. IPCC and National PSD data is collated in quarters, starting with the beginning of the financial year. In order to make direct comparisons, the WMP data provided within this report is for the same time period. (Quarter One & Two 01/04/15 – 30/09/15). Data for Quarter Three is not currently available and is therefore not included.
4. The final part of the report will update the board on work undertaken by PSD.

COMPLAINTS AGAINST THE POLICE

Table 1

Complaints made by the public against WMP

01/04/2015 – 30/09/2015 = 616 complaints

01/04/2014 – 30/09/2014 = 535 complaints

5. Compared with the same period last year PSD has recorded an increase of 81 complaints against the police. As previously reported, PSD experienced a backlog in recording complaints in 2014 and this may go some way to explaining the increase in complaints during the first half of 2015. The assessments team within PSD have improved their efficiency with regards to the timeliness of recording complaints. It is

predicted that this uplift will flatten throughout the remainder of the performance year and for final figures to be broadly in line with those recorded in 2014/15.

6. PSD and the force place emphasis on immediate Service Recovery. This involves the officer or member of police staff who receives a report from a dissatisfied member of the public attempting to immediately rectify the issue to the complainant's satisfaction, where appropriate, without the need for them to make a formal complaint.
7. A total of 37 complaints were non-recorded in line with the IPCC Statutory Guidance to the police service on the handling of complaints (May 2015). 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.
8. Each recorded complaint (representing a dissatisfied member of the public) may be made up of more than one allegation. E.g. one person makes one allegation that the arresting officer used excessive force and one allegation that later while in detention, the Custody Sergeant failed to deal with them correctly. The result of this is that there is one complaint but two allegations; hence there are always a higher number of allegations than complaints.

<u>Table 2</u>	
Number of allegations per 1000 employees (police officers and staff)	
01/04/2015 - 30/09/2015 for WMP	118
01/04/2014 – 30/09/2014 for WMP	92
Average for other most similar forces	139
National average for all forces	143

9. The number of allegations per 1000 employees is showing an increase which is consistent with the increase in public complaints. However of note WMP has 16%

fewer allegations than our Most Similar Forces¹ (MSF) and 18% less than the national force average.

10. Allegations are categorised to illustrate the nature of the matter about which a complaint is made. The top three categories are in line with other forces both in the MSF and nationally. They remain 'Neglect or Failure in duty' as number one. This would include complaints such as an officer not keeping a member of the public updated on a case. 'Assault' as number two and this would include any excessive use of force such as handcuffs being applied too tightly, and number three is 'Incivility'.

Table 3

% of allegations per 1000 employees for Neglect or Failure

01/04/2015 – 30/09/2015

Neglect or Failure for WMP	31%
Neglect or Failure for most similar forces	29%
Neglect or Failure for all forces	35%

Table 4

% of allegations per 1000 employees for assault.

01/04/2015 – 30/09/2015

Assault for WMP	11%
Assault for most similar forces	13%
Assault for all forces	8%

Table 5

% of allegations per 1000 employees for incivility.

01/04/2015 – 30/09/2015

Incivility for WMP	11%
Incivility for most similar forces	15%
Incivility for all forces	13%

11. As can be seen from the data supplied in Tables 3, 4 and 5 WMP is broadly comparable with forces in our most similar group in the nature of complaints made. However, because these three categories account for the majority of all complaints the work done through 'Pride in Our Police' and 'Code of Ethics' places a particular emphasis on these three categories.

¹ Greater Manchester Police, Merseyside Police and West Yorkshire Police.

12. In table 6 (next page) the outcomes of complaints are shown over the first half of this year as per previous tables. The outcomes are defined as 'other' and this includes cases that the regulations state do not fall into a category that should be recorded as a complaint. 'Local Resolution' is where the matter has been resolved prior to a full investigation taking place. Matters that are dealt with by Local Resolution are usually the less serious complaints. 'Not Upheld' means that on the balance of probabilities the case complained of has not been proven. 'Upheld' means that all or part of the complaint has been proven and 'Withdrawn By Complainant' means that the complainant does not wish to proceed with the complaint made. Disapplication, Discontinuation and Dispensation of a complaint are when the complaint is either made out of time, without good reason or it is not practicable to investigate as the complainant will not cooperate.

Table 6

**OUTCOMES of Force Finalised Cases
by Professional Standards
Cases Recorded 01/04/2015 – 30/09/2015**

Disapplication, Discontinued, Withdrawn - by Force	94
Local Resolution - by PSD	127
Not Upheld - by PSD	268
Upheld - by PSD	79
Derecorded	2
Grand Total	570

13. In more serious cases forces are required to refer matters to the IPCC. There are specific categories that require a mandatory referral and in addition cases that the force would like to refer can be done on a voluntary basis. WMP make use of the voluntary referral process when it is believed that the specific circumstances of the case make it appropriate for the IPCC to be notified, where there is no formal requirement to do so.

Table 7

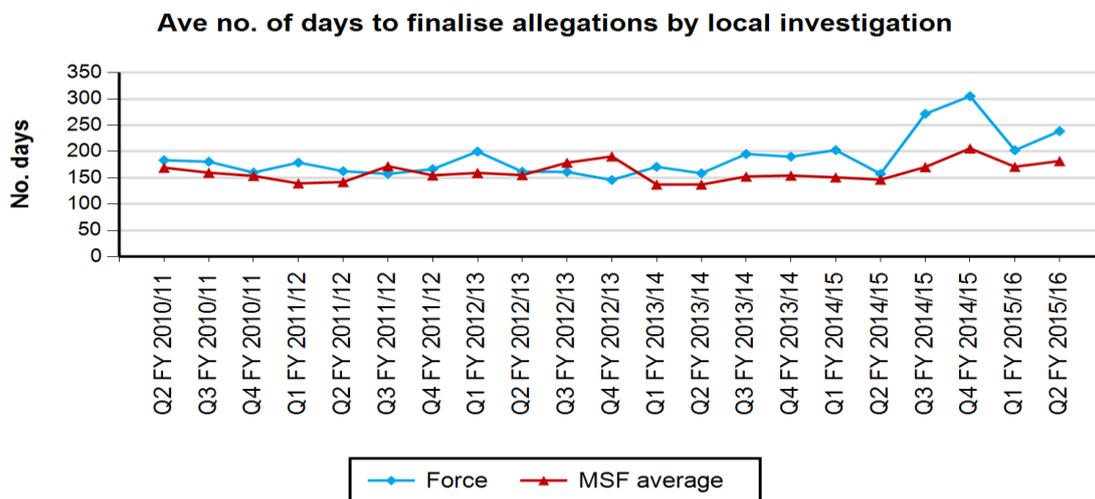
Number of IPCC referrals by WMP

01/04/15 – 30/09/15	181
01/04/14 – 30/09/14	84

Referral Category

1. Death after police contact	29
2. Serious Assault	29
3. Criminal Offence	25
4. Serious Injury	25
5. Discrimination	13
6. Corruption	12
7. Other	14
8. Voluntary	3

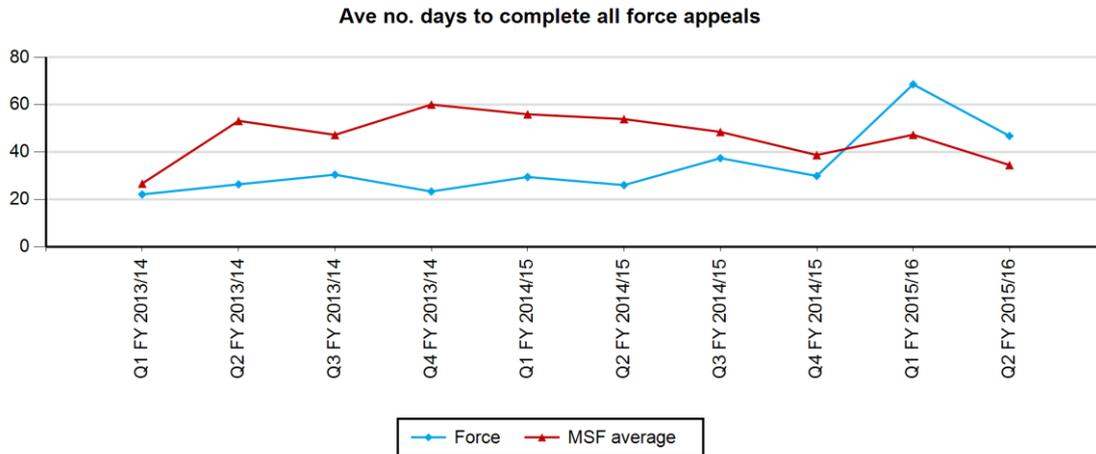
14. As shown above there has been an increase in IPCC referrals during this reporting period. Force Intelligence has been commissioned to analyse this increase and to provide a report to the Head of PSD. This report is due in April 2016.
15. Of the 29 referrals in relation to death after police contact, the IPCC has determined that only 7 of these will be subject of an independent investigation. The scope of those investigations is to determine whether or not the initial handling by WMP of the missing person report was appropriate in the circumstances. All other matters were referred to the Force to review.
16. The categories of serious assault and serious injury are defined by the nature of the complaint or allegation. An allegation of excess or unlawful force is recorded as the former, whereas persons who are injured without the use of force, such as in an RTC are recorded as the latter.
17. In the category 'other', four referrals were in relation to the Hillsborough Inquiry.
18. Criminal Offence relates to allegations such as theft or that an officer has been untruthful when providing evidence.
19. The IPCC target is for all local investigations to be completed within 110 days. The graph below shows WMP taking 217 days to complete an average investigation. This is in excess of the target but is also 41 days longer than for our most similar forces to finalise cases. The IPCC in their narrative to support this data have noted that the timeliness data has been adversely affected by a backlog in recording in 2014/15. Although the backlog was resolved by Q1 2015/16 the effects of this are reflected in the overall timeliness figure. In addition, the IPCC highlight that WMP maintains one of the smallest per capita Professional Standards Department in the UK.



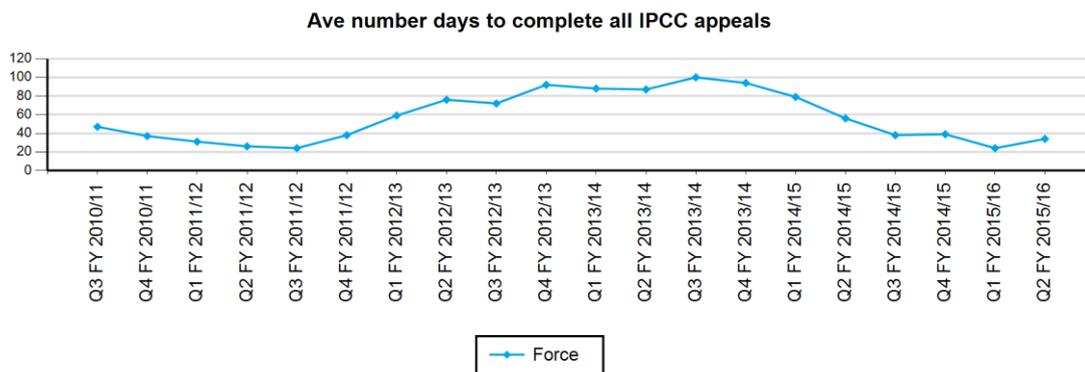
20. The IPCC narrative goes further and identifies that in comparison to our MSF, WMP use investigation as a means of resolving complaints 67% compared with 37%. As part of the '100 day plan' launched by the Chief Constable, PSD are identifying how it can ethically resolve more cases without local investigation. At present WMP locally resolve 18% of complaints, whereas our MSF figure is 47%. This suggests that WMP are not utilising local resolution effectively and PSD is proposing a series of workshops with first and second line managers so that they are more confident in resolving complaints at an earlier stage.

APPEALS

21. The appeal body for less serious and straightforward cases such as incivility is the force where the complaint was made. These are referred to as Force Appeals. In more serious cases the appeal body is the IPCC. The complainant is informed who the appropriate appeal body is for their complaint. All appeals should be dealt with within 28 days following receipt of the appeal. Below is the graph illustrating how long WMP take to finalise appeals in comparison to most similar forces. WMP are shown in blue with most similar forces shown in red. The spike in Q1 was identified as a short term staffing issue, which has been addressed. As predicted in the last SPCB report, the length of time taken to complete an appeal is broadly comparable to our MSF.



22. The below graph illustrates how long it takes for the IPCC to complete their appeals for WMP cases.



23. The force's appeals are split into two categories; Local Resolution, which are those that have been resolved at an early stage without requiring an investigation, and Investigations, which are the cases that have been proportionately investigated.

Table 8

Percentage of appeals upheld between 01/04/15 – 30/09/15

WMP Local Resolution Appeals	67% upheld
MSF Local Resolution Appeals	23% upheld
WMP Investigation Appeals	19% upheld
MSF Investigation Appeals	16% upheld

24. Although WMP has upheld 67% of Local Resolution appeals during the period of this report this relates to 2 appeals.

Table 9

Percentage of appeals upheld between 01/04/15 – 30/09/15 by the IPCC

IPCC Local Resolution appeals (MSF)	0% (50%)
IPCC investigation appeals (7 in total)	35%
MSF Investigation appeals	48%

25. Although the IPCC did not receive a Local Resolution appeal from WMP during the reporting period, table 9 highlights that the IPCC upholds more appeals than forces as a percentage. It can be seen that the IPCC upholds less investigation appeals for WMP than our MSF. In its latest commentary the IPCC highlighted *“The number of appeals upheld has also reduced significantly, and is well below both the MSF and National numbers. This is read as a positive indicator that performance is improving regarding the standard of investigations.”*

POLICE CONDUCT

26. Police Conduct cases are those that are identified internally, they do not involve a complaint from the public. There is no data available for other forces so comparisons cannot be made. In a similar way to complaints from members of the public the conduct matters are categorised against each allegation, and one case could have a number of different allegations. Therefore there are always more allegations than recorded conduct cases.

Table 10

Conduct Cases

01/04/15 – 30/09/15	145
01/04/14 – 30/09/14	162

27. Table 10 shows there has been a small decrease in the number of recorded internal conduct cases during the first half of 2015.

Table 11

257 Conduct allegations between 01/04/15 – 30/09/2015 main allegation types

Discreditable Conduct	61
Duties and responsibilities	54
Honesty and Integrity	55

28. The three main categories for conduct allegations have not altered for many years. ‘Discreditable conduct’ is often used for all matters that do not fit easily into any other category so it is not surprising that it consistently features as the main allegation type. It covers any actions that could discredit the police service.

29. 'Duties and Responsibilities' includes officers not exercising their duties diligently or are neglectful in exercising them.
30. 'Honesty and Integrity' covers an officer being dishonest in any way.

DISPROPORTIONALITY

31. The Force Intelligence Department has been commissioned to provide an independent, evidence-based report on disproportionality within the police complaints and conduct system. Force intelligence will begin reporting on their findings from April 2016.
32. The aim of the report is to answer 4 research questions:
 - Is WMP disproportionate across the 9 protected characteristics around complaints?
 - Do internal conduct and resolution procedures show any areas that could cause the data to show disproportionate findings including process issues?
 - How as an organisation do we create a stronger feeling of procedural justice?
 - What other research would we want to commission?
33. An update report went to the Strategic Police and Crime Board in January 2016. Since then volunteers have been sought from the staff associations to undertake the face to face interviews with individuals who have been through the complaints procedure.
34. The Chief Constable is to send a communication to all officers and staff in WMP, which will state: *"In order to address staff concerns regarding disproportionality in the misconduct system, I want to invite you to take part in a semi-structured and anonymous interview with volunteers to identify how you feel about the misconduct procedures and your experiences going through what is, by its very nature, a difficult process. This invitation is to every member of the force, and no strand of diversity from the most commonly represented to the least is to be ignored. This is intended to be inclusive, aiming to not disenfranchise any individual or group and interviews are the best way to capture people's candid experiences"*.
35. An online survey will also be available for individuals who do not want to participate in face to face interviews.
36. PSD and Force Intelligence met with staff associations on 10th February 2016 to consult and agree some hypotheses to test within the data to further focus the study.

PROACTIVE WORK (COUNTER CORRUPTION UNIT)

32. During the reporting period [01/10/15 to 18/02/16] the Counter Corruption Unit processed 158 items of intelligence. A preliminary investigation is undertaken whereby the intelligence is assessed for credibility and corroboration. The intelligence is then assessed as to whether an investigation or further research is required. An enquiry enables officers to investigate whether the behaviour, outlined in the intelligence, can be proved or negated. This is often an elongated process utilising a variety of policing overt and covert tactics.
33. A Tasking Process, with a new risk assessment, has been introduced to ensure management scrutiny of both reactive and proactive corruption investigations. The Tasking Process enables WMP Leadership Team to have strategic oversight of the risk posed to the public and organisation as a result of corrupt officers/staff. It also ensures that resources are directed appropriately.

34. During the reporting period the following outcomes were recorded by the CCU.

Investigations of note:

35. Support provided to National Crime Agency (NCA) concerning a West Midlands member of Police Staff [call handler] who had conducted checks on surveillance vehicles deployed on a high risk investigation. Dynamic investigation by CCU evidenced the member of Police Staff had conducted the enquiries, though negated any threat to the NCA investigation by refusing to release details to caller. In the future this officer will be praised for their good work.
36. Support provided to HM Prison Service in respect of a male sentenced to life imprisonment for murder. Intelligence suggested that a prisoner was making attempts via a corrupt police officer to contact his daughter and force her to travel to America. Following intervention from the CCU an investigation established there was no corruption and safeguarding was implemented around the daughter.
38. Police Officer and two others [non-police] to appear at Stafford Crown Court on 04 April 2016. It is alleged that the officer and two others between September 2015 and December 2015 conspired to commit Misconduct in a Public Office and conspired to Pervert the Course of Justice.
40. The CCU continues to identify intelligence gaps to proactively target individuals who are suspected of corrupt activities.
42. The team has engaged with WMP 2020 to ensure that Protective Monitoring is fit for purpose as the organisation moves forward. This is an area of business that the CCU are keen to have more involvement to ensure we can continue to protect both West Midlands Police and our staff. The CCU is currently trialling one of the direct access laptops that will soon be issued. Feedback will be provided to IT.

CODE OF ETHICS

43. PSD has led the force with embedding the Code of Ethics. HMIC in its PEEL: Police Legitimacy 2015 report found that West Midlands Police had promoted and publicised the Code of Ethics and made it accessible to the workforce. All staff had received specific training on the code and the principles were being incorporated into other training. Each staff member had been provided with a personal copy of the code by their local commander and this was supplemented with intranet and poster campaigns. Integrating the code into everyday policing activities formed part of the 'Pride in our Police' objectives.
44. Practical understanding of the principles and values of the Code of Ethics was enhanced using a real-life 'dilemma of the month', which generated online debate. The Code of Ethics was being delivered in a structured manner across the organisation with efforts being made to ensure the real meaning of the code was being presented in a practical way which staff would understand. We found that senior officers believed the code was having a positive influence on standards of behaviour, decision-making and the workforce's interaction with the public.
45. 'Pride in the Police' is the mechanism for the continued development of work to ensure the Code of Ethics and its application is understood fully at all levels across the organisation.

REPUTATION AND RISK MANAGEMENT TEAM (RRMT)

46. The RRMT is a small team within PSD and is the proactive arm to protect the organisation from reputational risk. They have a number of different areas of

business that include management of Gifts & Hospitality, Business Interests, and Vetting.

47. Table 16 provides a breakdown of some elements of the RRMT workload.

Table 12	
Between 01/04/15 – 31/12/15	
Business Interest processed	350
Gifts & Hospitality processed	412
Vetting applications processed	2527

The team collates all business interest requests for consideration by the Head of PSD and carry out PSD & integrity checks. They manage any conditions that are imposed and review business interests to assess any emerging threat and risk.

48. Out of the 350 Business Interests processed 16 were declined, due to the officer's poor attendance or performance.

49. The team records all the gifts and hospitality that are offered to officers and staff and publishes them on the external WMP website. They also monitor gifts and hospitality to identify any themes or trends and oversee the policy around their management.

50. There are a number of different types of vetting applications.

- Level 1 Vetting - simple vetting checks carried out for all contractors that would not have any access to police systems, for example painters and decorators.
- Level 2 Vetting - a deeper vetting process designed for people who may need to access police systems such as consultants.
- Level 3 Vetting - a more detailed process including vetting all family members and is applicable for external applicants who require access to sensitive information such as senior consultants.
- Recruit Vetting is carried out for all recruits to the organisation and they include officers, PSCOs, police staff, transferees, Special Constables and people returning following a career break.
- Management Vetting is a process carried out to vet senior officers or staff in critical roles.

Table 13 outlines the breakdown of the vetting workload.

Table 13	
Percentage of 1656 vetting applications carried out between 01/04/15 – 31/12/15	
Level 1	39%
Level 2	21%
Level 3	2.5%
Recruit Vetting (Police Staff)	6%
Recruit Vetting (Police Officer)	10%
Management Vetting	16.5%
Career Break	0.5%
Police Officer rejoiner/transferees	0.5%
Aftercare/revetting	4%

51. The failure rate for the vetting process depends on the category. At Level 1 the failure rate is 44%, at Level 2 it is 20%, at Level 3 it is 15%, recruit vetting for police officers is 12%, recruit vetting police staff is 6.5%, and management vetting it is 2%. Clearly when someone is already a member of the organisation and simply going through Management Vetting they are less likely to fail the process than someone trying to enter the organisation on the first occasion.
52. Any person entering employment with West Midlands Police will be vetted to the appropriate level prior to taking up their position and entering police premises. In line with both National and Local Vetting Policy the permission of either the Chief Constable or Deputy Chief Constable is required to allow a member of staff to work within WMP where the vetting process was previously failed or had not been completed. The levels of benefit and risk will be considered by the CC or DCC prior to making their decision. The current Local and National Policy prohibits Management Discretion which would be a breach of the policy and an unknown risk to the security and reputation of West Midlands Police. Since April 2015 a total of 21 appeals have been received; 20 have been rejected.
53. Timeliness of the vetting process depends on the nature of the vetting required and how urgent the vetting is. For example in urgent cases the RRMT have carried out the vetting process within 24 hours after receiving the necessary paperwork, whereas when the vetting has an agreed timeline within the overall project plan (i.e. Police Officer Recruitment) it will take two/three weeks to carry out a batch of around 80 recruits.

UPDATE ON 'RATE YOUR LOCAL POLICE'

54. Rate Your Local Police was re-introduced towards the end of 2015. Since the reintroduction, usage has been light, but is beginning to improve.

RESPONSE TO THE RECENT IPCC REPORT ON VOLUNTARY AND MANDATORY REFERRALS

55. The following section details the WMP response to a number of recommendations made by the IPCC in the report *'Referring complaints, conduct matters and death or serious injury matters to the IPCC – a review of current police force practice'*
56. Referral to the IPCC is an important part of ensuring public confidence in the independence, accountability and integrity of the police complaints system. Where there is doubt about whether a complaint or recordable conduct matter must be referred, the Appropriate Authority based in the PSD Assessments Team will seek the IPCC's advice about general policy on referrals or about whether to refer a specific incident or allegation.
57. **Recommendation:** *"Forces should ensure they have appropriate processes and communication in place to ensure professional standards departments are notified of relevant cases, including those where serious case reviews and domestic homicide reviews take place. Forces should ensure that these processes include appropriate quality assurance. They should also provide appropriate training to relevant staff."*

Response: PSD maintains an on call duty rota that provides 24 hour capability for the communication of all relevant cases. Invariably the contact with PSD is via the Force Incident Manager. In all cases an immediate assessment of seriousness is undertaken and a decision made as to whether the referral criteria for the IPCC has been met. Serious Case Reviews and Domestic Homicide Reviews are brought to the

attention of PSD by the Force Investigation Review Team. These investigations are reviewed by an Investigating Officer who will make an assessment of conduct and refer this matter for a severity assessment by the Appropriate Authority. In addition, PSD meets with all staff who perform the role of Appropriate Authority every 2 months. A standing agenda item for this meeting is the dissemination of the IPCC Lessons Learned Bulletin. Fast time learning is shared directly with all relevant staff via force communication systems.

58. **Recommendation:** *“A referral assessment should be carried out in every case as part of the initial assessment of seriousness. For special requirements investigations and for all death or serious injury cases, a substantive rationale for not referring should be recorded on the file. These decisions should be subject to quality assurance measures”.*

Response: The Assessments Team in PSD is led by an Appropriate Authority who is responsible for assessing whether a complaint or conduct matter will be subject of special requirements. Identifying a complaint or conduct matter as subject to special requirements simply means identifying if an allegation were to be proven whether it would lead to criminal or misconduct proceedings. This process is well established as is are the referrals of Death or Serious Injury cases together with those that meet either the mandatory or voluntary referral criteria. PSD also meet on a quarterly basis with the IPCC Oversight Manager who is satisfied that WMP are meeting its requirements regarding referrals.

59. **Recommendation:** *“PSDs should ensure that systems are in place to record and monitor patterns in an officer’s behaviour. These systems should trigger a review if there appears to be a pattern of allegations and/or a higher number recorded for particular officers. The review should contribute towards the assessment of the seriousness of the case and the decision about whether to refer it.”*

Response: As part of the initial assessment and research of a complaint or conduct matter PSD will review the complaint and conduct history of officers. Where patterns or trends are identified then this is taken into account on whether or not a proven allegation would lead to criminal or misconduct proceedings. In addition the RRMT as part of its role identifies patterns, trends and vulnerabilities of officers and staff in WMP and where concerns are identified. This is then referred to the Local Command Team to address.

60. **Recommendation:** *“PSDs should ensure appropriate guidance and training are in place to enable their staff to make confident referral assessment decisions. These decisions should be quality assured.”*

Response: All assessments and referrals are undertaken by PSD. The Appropriate Authority is experienced and has detailed knowledge of the IPCC Statutory Guidance 2015, Police (Conduct) and (Misconduct) Regulations as well as the Police Reform Act 2002. As discussed earlier, the IPCC has confidence in WMP processes, and this has been further endorsed recently by HMIC PEEL: Police Integrity report.

FINANCIAL IMPLICATIONS

61. There are no financial implications arising directly from this report.

LEGAL IMPLICATIONS

62. The approach to PSD work is reflective of the Force Values and Code of Ethics and complies with relevant legislation within the Police Reform Act 2002, the Police Reform and Social Responsibilities Act 2011 and subordinate Regulations.

RECOMMENDATIONS

63. The Board is asked to note the contents of this report.

CHIEF SUPERINTENDENT ANDREW NICHOLSON
HEAD OF PROFESSIONAL STANDARDS