



STRATEGIC POLICING AND CRIME BOARD 4 October 2016

Professional Standards Department

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 work undertaken by the Professional Standards Department (PSD) of West Midlands Police (WMP).

EXECUTIVE SUMMARY

- 2 This report provides statistics and commentary 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. (N.B. the distinction between Complaints and Allegations; as 1 complaint may be made up of several allegations.)

BACKGROUND

- 3 IPCC and National PSD data is collated quarterly, starting with the beginning of the financial year. IPCC data returns do not cover the entirety of the relevant period defined within the OPCC request, only being available from April to June. In order to deliver the best data, as a direct comparator, the PSD response provided within this report is for the entire period, mined directly from PSD systems. N.B. The IPCC reports are also directly compiled from our data, so this return is as accurate as IPCC reports, though there have been some recent issues arising from an upgraded system which has caused the IPCC issues nationally.

- 4 The latest IPCC bulletin is included in the Appendix covering 01/04/2016-30/06/2016 for the sake of completeness. This report is also set against a backdrop of a Professional Standards Department and Counter Corruption Unit (PSD/CCU) growth bid arising from a HMIC recommendation that PSD functions should equate to 1% of total staffing of the force, while WMP PSD is currently at 0.4%. The bid is not merely driven by staffing, as PSD and CCU have over the last 12 months streamlined processes and reviewed governance in order to operate a leaner system. The bid is designed to increase performance beyond the systems and process improvements that we have already put in place and to build in necessary resilience that does not currently exist.

Number of complaints dealt with by WMP

- 5 PSD has witnessed a decline in total complaints of approximately 33% compared with 2014/15 when compared with the previous reporting periods. (N.B data misses the 30 days of September and as such the final report will record a different result with a less marked decrease in total volume). This is hypothesised to be due to a combination of internal staffing issues in 2014 which delayed the timely recording of complaints and various moves within PSD. This created a bulge in total complaints recorded during the first half of 2015/16. Staffing levels within assessments have not improved in the time period, though processes have been streamlined and this has had a positive impact upon the recording of complaints. (Please note that while total complaints equate to 393 for the period, the total allegations are 1044, with approximately 3 allegations per complaint).

Total number of complaints recorded between 01/04/2016 – 31/08/2016			
Outcome of cases per year	2016	2015	2014
Live	244		
Sub Judice	24		
Subject of Force Appeal	10		
Pending Appeal	30		
Finalised	85		
Total number of cases	393	616	535

- 6 WMP address a higher percentage of complaints through service recovery than Most Similar Forces (MSF) and have been praised by HMIC and IPCC for the accuracy of recording. PSD place emphasis on immediate Service Recovery. This involves attempting to immediately rectify an issue to the complainant’s satisfaction, where appropriate, without the need for a formal complaint. WMP immediately recover approximately 40% of total expressions of dissatisfaction. Service recovery has a negative impact on direct recording of complaints within the recommended ten day time period, but it is clear that recovery of service has more public benefit than meeting a ten day time limit for recording.

Complaints and allegations per thousand employees

- 7 Complaints/allegations per thousand employees is a method used to compare forces that have significant variation in staffing, from small forces like Cheshire with 2500 staff to larger forces like the Met with more than 48000. In WMP, 93.65 allegations per thousand staff were recorded over the period.

Complaints per 1000 (WMP has 10676 employees)	
Police Officers	6823
Police Staff	3150
PCSOs	479
Specials	224
Total	10676
Total Complaints	35.26 complaints per/1000
Total Allegations	93.65 allegations per/1000
Same period 2015-2016	118
Same period 2014-2015	92
MSF Average	139
National Average	143

8. WMP receive fewer allegations than our Most Similar Forces¹ (MSF) and 18% less than the national force average across the last 3 years, showing that we remain consistent as a force, despite austerity and change.
9. WMP consistently out-perform our most similar forces in this regard and are one of the least complained about forces nationally. The IPCC have offered praise of the force as, unlike other forces, WMP maintains an accurate record of all service recovered on the same system as complaints and conduct.

Number of complaints not recorded and the reason for non-recording

10. 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;
 - The complaint has been withdrawn; or
 - 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;
 - 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;

- xiv. The complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints;
- xv. The complaint is repetitious; or
- xvi. The complaint is fanciful.

11. A total of 13 complaints were non-recorded in line with the IPCC Statutory Guidance to the police service on the handling of complaints (May 2015). WMP recording has routinely been considered better calibrated than that of Most Similar Forces (MSF) by the IPCC.

Number of Complaints Not Recorded (Miscellaneous records) and Reason For Non-Recording	
Not Reordered (Total)	13
Non-Disclosure of Complainants Name/Address	1
Complaint was Repetitious	4
Vexatious, Oppressive, or otherwise an abuse of Procedures	6
Been Made by a Person Serving With The Police	1
Matter Is Already Subject of Compliant, Made by the Same Complainant	1

Total Allegations

12. Allegation types have been categorised below in order 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. 'Neglect or Failure in duty' remains at number one. This would include complaints such as an officer not keeping a member of the public updated on a case.

Top 5 Allegations (of the 1044 allegations recorded between 01/04/2016 – 31/08/2016)		
Type		
Type S	Other Neglect/ Failure of Duty	317
Type U	Incivility, Intolerance, Impoliteness	133
Type C	Other Assault	111
Type D	Oppressive Conduct or Harassment	74
Type Q	Lack of Fairness and Impartiality	68

13. Many complaints will contain multiple allegations (approximate average is three allegations per complaint) and the five most common types may be multiply represented within one complaint e.g. a member of the public complains that their ASB report has not been appropriately dealt with and five officers on a neighbourhood team have had dealings. All five are therefore recorded as separate allegations though they amount to the same issue. Similarly, dissatisfaction with an individual officer may result in various allegations, including incivility that escalates

to restraint and arrest. A complainant would thereafter allege incivility, assault and unlawful arrest.

The numbers of complaints that have been referred to the IPCC

14. Referrals to the IPCC are well managed, though the interface is not always seamless. All matters that require referral are either dealt with by the on call PSD out of hours or brought to a daily management meeting for discussion where the complaint is received within office hours. This ensures that nothing is missed and everything is effectively quality assured.

120 Complaints were referred to the IPCC (of the 393 recorded between 01/04/2016 – 31/08/2016)	
Referred (total)	60
Criminal Offence or Discriminatory Behaviour	10
Death or Serious Injury	3
Relevant Offence	15
Serious Assault	17
Serious Corruption	11
Serious Sexual Offence	1
Voluntary Referral (i.e. does not meet criteria but force considers it appropriate to inform IPCC)	3

15. Though a complaint may be referred to the IPCC for oversight, the matter may be returned to PSD for investigation. There are four levels of IPCC influence on investigations, though generally the middle two are infrequently used:
- Independent, where the IPCC own the entirety of the investigation.
 - 2 and 3 Managed and Supervised, where the IPCC either direct the PSD investigation or monitor it remotely.
 - Local, where PSD own the entirety of the investigation.

Outcome of the complaints received

16. Between April 2016 and August 2016 WMP recorded a total of 393 complaints of which:

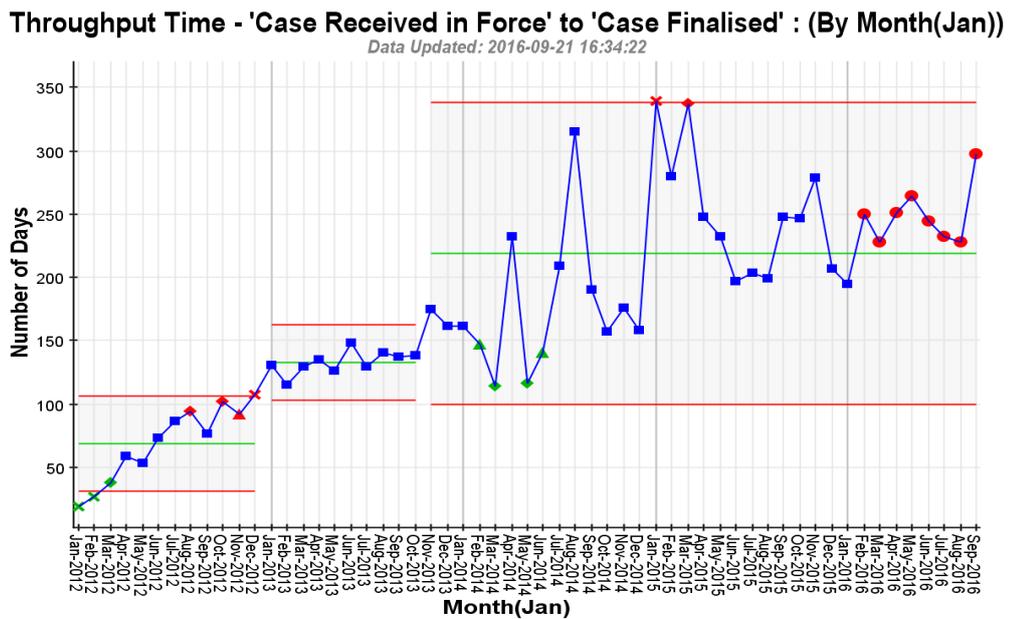
Outcome of the 393 complaints recorded between 01/04/16 – 31/08/2016	
De-Recorded	1
Disapplication - by Force	4
Disapplication - by IPCC	1
Discontinued by Force	1
Local Resolution by Divisions	39
Local Resolution by PSD	5
Not Upheld by Division	13
Not Upheld by PSD	7
Upheld by Division	3
Withdrawn by Force	11

17. 318 complaints of 393 are under continuing investigation. This can be for a number of reasons the primary being a combination of staffing and the extra layer of complexity that the Misconduct Regulations impose on PSD investigations such as:

- Sub judge 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.
- 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.

The timeliness of the investigations and the timeliness of appeals

18. The below chart demonstrates a significant upward trend in the total number of days taken to finalise investigation since 2012.



19. This is due to a number of factors including but not limited to:

- Priority Based Budgeting (PBB) or Zero Based Budgeting ZBB staffing reductions.
- Increased culture of scrutiny of police actions in light of Hillsborough, Pitchford etc.
- Changes to regulation which have affected the back end of the process.
- Location moves which have impacted upon and delayed work
- Several statistically outlying cases that skew the total average upwards.
- Sub judice cases

Results of appeals

20. Traditionally WMP has upheld far fewer appeals than the IPCC. On average 11.08% of police appeals are upheld with 34% of IPCC appeals upheld in the same period or our current rate. This increase may demonstrate a more robust process on behalf of PSD in assessing how misconduct has been dealt with in local departments.

Appeals between 01/04/2016-31/08/2016		
	Force	IPCC
On-going	37	1 Withdrawn complaint
Upheld	9	12
Withdrawn	0	1
Nott upheld	28	18
Invalid	3	4
Total	76	35

21. On average an appeal will be process in 44.3 days. An IPCC appeals takes an average days to process is 45 with one statistical outlier dragging the average up by 5+ days.

Counter Corruption Unit

22. The Counter Corruption Unit (CCU) receives and develops all corruption related intelligence and put proactive tactics in place to corroborate or disprove said intelligence. The anonymous, vulnerability help line is proactively promoted to encourage staff to raise concerns regarding corrupt or vulnerable colleagues.

23. Much of the CCU's work involves allegations of serious criminality against officers or staff and as such remains necessarily secret. CCU is currently stretched to capacity due to the complexity and sensitivity of a small number of corruption investigations.
24. An additional nine staff with relevant skills have been temporarily placed within CCU to enable intelligence and operational functions to match critical demand. This represents more than 100% growth in the department, demonstrating the risk inherent in counter corruption matters. This has strengthened the intelligence and operational functions to match demand.
25. In an attempt to respond to corruption by other means than simple growth, further work within the CCU involves partnership with Accenture and WMP2020 colleagues to find digital solutions to issues of corruption. Mobile devices and platforms may be used for corrupt purposes and in order to prevent and detect such matters the CCU has been involved in a protracted dialogue with ICT and providers to ensure that full auditability is factored into any development. This is an attempt to get upstream of the significant dangers presented by mobile devices which by definition make our information mobile and, therefore, more vulnerable to loss deliberate or otherwise.
26. A formal risk assessment and tasking process has been introduced to ensure management scrutiny of both reactive and proactive corruption investigations. The tasking process enables the WMP Executive 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.
27. CCU have a number on on-going investigations. 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. Recent results from CCU have included the nationally reported arrest and conviction of a serving police officer for threatening to kidnap WMP staff for terrorist purposes.
28. In addition to CCU work, PSD are currently working on recruitment into the Prevention and Intervention function which will allow PSD to identify markers for corruption or misconduct earlier and thereby resolve matters before they escalate. This will provide better governance of business interests (i.e. annual reviews) in line with HMIC directives and also of gifts and hospitality. This will also allow for better management information to be returned to local departments for localised management of issues and trends. This strengthens the organisation as a whole and allows for preventative work to be conducted locally without automatic recourse/escalation to PSD

Update on the work of the vetting service.

29. Vetting is the first line of defence against corruption and provides an on-going scrutiny over staff designed to identify vulnerability throughout the lifetime of an individual's service with WMP. 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, or having access to our systems or tactics. 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 vetting has not been concluded, but this must be on a case by case basis with an appropriate business case completed and signed by the Chief Constable or Deputy Chief Constable.
30. The current Local and National Policy prohibits Management Discretion, at any lower ranks than these, as failure to vet would allow an unknown risk to the security and reputation of West Midlands Police. The Chief Constable however, devolves responsibility for hearing vetting decision appeals to the DCSU PSD, who is the final arbiter of any such appeals. Since April 2016 more than a dozen appeals have been raised, with approximately 30% being granted.

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

31. 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 Vetting Unit 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 three weeks to carry out a batch of around 80. Timeliness is also dependent on out of force checks being returned by other force vetting units and the national agreement for this is two working weeks. With austerity affecting other forces too, they also carry backlogs and this two week agreement is not routinely met.

32. Vetting currently carries a significant backlog of 520 applications, caused by a significant influx from the recruitment of temporary associate staff, a process of recruitment, and firearms applications as well as normal business. In order to respond to concerns regarding 10 year reviews of existing recruitment vetting, PSD in partnership with NGES have recruited six new vetting staff into post and they have just completed training. This will speed the backlog significantly and will allow for the renewal phase to begin following TS1. This uplift was projected to reduce the vetting backlog over 4 years while also catering for the HMIC compliance piece. With recruitment plans for 1200 new staff across 5 years this becomes more demanding and creates slippage of an estimated 12 months to cater for this greater demand.
33. Vetting reject approximately 17% of all external applicants which is reduced by approximately 30% of that figure following appeal. It is possible that a broadly analogous number of existing staff members will also raise serious concerns through vetting, their circumstances having changed significantly since the last checks were completed. This could pose an organisational risk, of which PSD and the Executive are cognisant.

Disproportionality in police misconduct proceedings

34. The Force Intelligence Department in partnership with PSD conducted a two 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.
35. The second phase was a qualitative process that examined the feelings of staff. This piece was driven by Intel, staff associations and PSD and captured the experiences of staff from diverse backgrounds. The aim of the report was to answer four research questions:
- Is WMP disproportionate across the nine 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?

The report demonstrates a degree of disproportionality across various different characteristics of diversity and a strong feeling amongst staff particularly from BAME backgrounds that the process is unfair to certain groups.

36. Various causes of this disproportionality have been posited, including deployment strategies where WMP post BAME officers to more deprived areas which increases the chances of receiving complaints due to higher rates of crime, socio-economic disenfranchisement and distrust of policing and over-escalation on the part of managers who through either overt or unconscious bias, or a perceived requirement to be over transparent where dealing with staff from different backgrounds, formalise complaints and discipline unfairly. The lack of senior staff from BAME backgrounds was also noted as was under representation in Appropriate Authority roles on departments. PSD have accepted recommendations and they are included on the departmental action plan.
37. It is also essential to note that HMIC noted no discrimination whatsoever within PSD processes/investigations, and the distrust noted within the force report is wider than just PSD and covers the local elements of complaints and discipline too and also the volume of complaints raised by the public. It forms a wider commentary on disparity within society.

IPCC report on voluntary and mandatory referrals

38. 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 gravity is undertaken and a decision made as to whether the referral criteria for the IPCC have 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 two 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
39. 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
40. 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. PSD are also looking to recruit into the Prevention and Intervention Team in order to provide

a more structured analysis of this risk and to provide more accurate information for local managers to act upon.

41. 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

The wider growth bid that has been submitted on behalf of the PSD/CCU functions, if accepted, will necessitate investment from the force. This is currently being developed for submission through the DCC.

LEGAL IMPLICATIONS

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

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