



Strategic Policing and Crime Board

15th October 2019

Police and Crime Plan Priority: Improving Confidence in the Police

Title: Complaints and PSD

Presented by: DCC Louisa Rolfe, DCS Chris Todd

Purpose of paper

1. The purpose of this paper is to provide an overview of the work of the Professional Standards Department (PSD) and how this contributes to upholding the Code of Ethics and embedding the standards of professional behaviour.
2. The data included in this report covers the last three full financial years (April-March) and the data for the current year runs from April to the end of August (unless otherwise stated).

Background

3. Following the comprehensive review undertaken within Professional Standards, the department continues to embed change to ensure members of the public and internal staff receive a high level of service from the department. The West Midlands Police PSD is one of the smallest in the country in proportion to the size of the force¹, yet continues to deal with some of the most complex investigations.
4. As detailed in the previous board paper, the intention to revise the Police Misconduct Regulations through Police Integrity Reform and the implementation of the Police and Crime Act 2017, has now been timetabled. Although not officially laid before Parliament, the Home Office have confirmed that the implementation of the new regulations will come into effect on the 1 February 2020.
5. Five sets of amended legislation will be introduced; the Police (Complaints and Conduct) Regulations 2019, Police (Conduct) Regulations 2019, Police

¹ HMICFRS recommends PSDs nationally should reflect 1% of the force's workforce. WMP's Most Similar Forces (MSF – namely Greater Manchester, Merseyside and West Yorkshire police forces) have PSDs equivalent to 1% of their total workforce, whereas WMP's PSD comprises of only 0.75% of the available workforce.

(Performance) Regulations 2019, Police Tribunal Appeals Rule and Former Officers Regulations. The legislation has also allowed for PCCs to elect one of three models;

- Model 1 – oversight for performance of complaints system locally and force reviews (formerly appeals)
 - Model 2 - initial handling of complaints, including resolving complaints, initial contact and recording of complaints
 - Model 3 - responsibility for all statutory duties in relation to complaint contact during the life of the complaint process.
6. The office of the PCC (WMP) has elected to adopt model one. Work will now take place between WMP PSD and the OPCC to ensure consistent practises and learning is shared in relation to the completion of reviews.
 7. In line with the new regulations, a process will be introduced for resolving minor breaches of the Standards of Professional Behaviour, known as ‘Practice Requiring Improvement’ (PRI). This represents a shift away from traditional complaint and conduct handling, to an approach which encourages the force to reflect and learn from expressions of dissatisfaction and minor conduct issues. This will require continued focus by the force in embedding a culture which encourages learning rather than apportioning blame.
 8. The threshold for conduct sanction is also being increased to written warning or above and, therefore, it is expected anything below this threshold will be addressed under the PRI process. This represents a change as, whilst PSD will continue to investigate misconduct and gross misconduct, there will be a requirement for line managers to follow a regulated procedure for the implementation of PRI.
 9. To support this, a working group is in place bringing together key stakeholders from PSD, People and Organisational Development (POD), Appropriate Authorities and Staff Associations to ensure the force is ready to implement the new legislation and equip all line managers with the skills required to ensure the ethos of the new legislation is embedded in the organisation.
 10. The College of Policing are also delivering a national training programme for the regulation changes to be delivered to key stakeholders across the country including Appropriate Authorities, staff associations and Offices of PCCs. Staff from the West Midlands have already started to attend these training events.

Complaints Received from Members of the Public

11. The overall number of complaints recorded in 2019/20 (Q1 April-August) currently stands at 159² which represents a significant downward trajectory since 2016/17, as shown in Figure 1 overleaf. This is despite the number of expressions of dissatisfaction remaining consistent, demonstrating the success of the new

² under the Police Reform Act 2002 and Police (Complaints and Misconduct) Regs 2012

Service Recovery Team. This team ensures expressions of dissatisfaction are resolved earlier, thus negating the necessity for complaints to be recorded and investigated.

12. The number of allegations recorded since April 2019 currently stands at 278. Since 2016/17, there has been a year on year reduction in this area and this reduction is expected to continue for 2019/20. Whilst this is, in part, due to the overall decrease in recorded complaints, allegations are also being recorded more concisely with multiple breaches of a specific category being recorded under one allegation, in accordance with recording requirements.

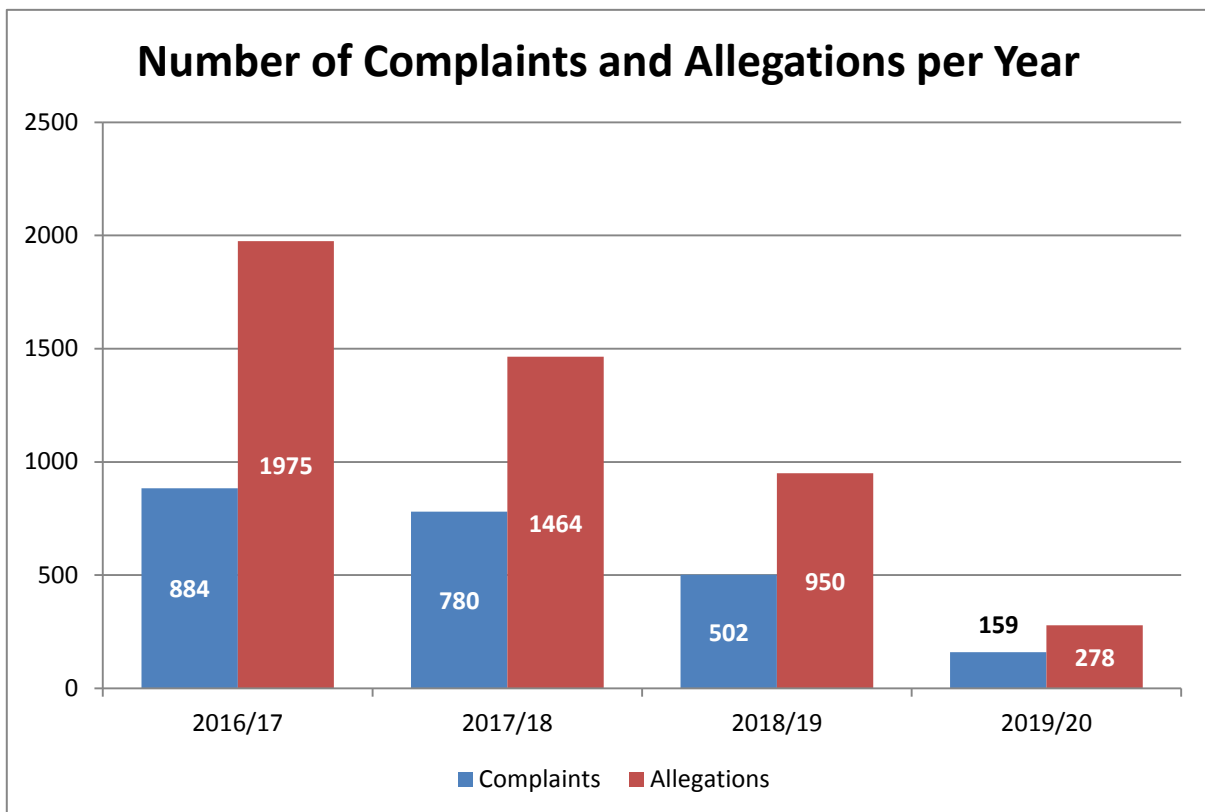


Figure 1. Number of complaints (blue) and allegations (red) recorded per year

13. Of the 278 allegations made since April, the largest proportion continues to relate to 'Other Neglect or Failure in Duty', representing 30% (85 allegations). Approximately half of these relate to investigation failure, which often represents a level of subjectivity in terms of expectations of the complainant and the often proportionate actions of the force in terms of crime investigation. The vast majority are not upheld with no breaches in the standards of professional behaviour being identified.
14. Overall, the proportion of allegation types has remained relatively consistent over recent years. The Prevention and Intervention team continue to actively explore

all complaints to identify wider organisational learning to further reduce the number of expressions of dissatisfaction received.

Timeliness of Investigations

15. Timeliness of investigations remains a key priority for the department, due to the adverse impact a lengthy investigation can have on both the complainant and the subject officer.
16. The timeliness of recording complaints within ten working days currently stands at 22% compared to 26% last year.
17. Whilst the average number of days to finalise complaints remains slightly higher than our Most Similar Force (MSF) at 121 days compared to 112 days, this represents a marked improvement compared to the same period last year (167 days) (See Figure 2 below).
18. The team are also managing a number of conduct cases that involve serious criminality, which necessitate detailed and complex investigation and criminal proceedings, therefore taking much longer to finalise.
19. In terms of allegations suitable for local resolution, these are resolved, on average, within 85 days (between April and August 2019). Whilst this is slightly higher than the MSF average of 69 days, this represents an improvement since the same period last year, of 91 days.
20. Investigation time remains a priority and the department is committed to achieving further reductions.

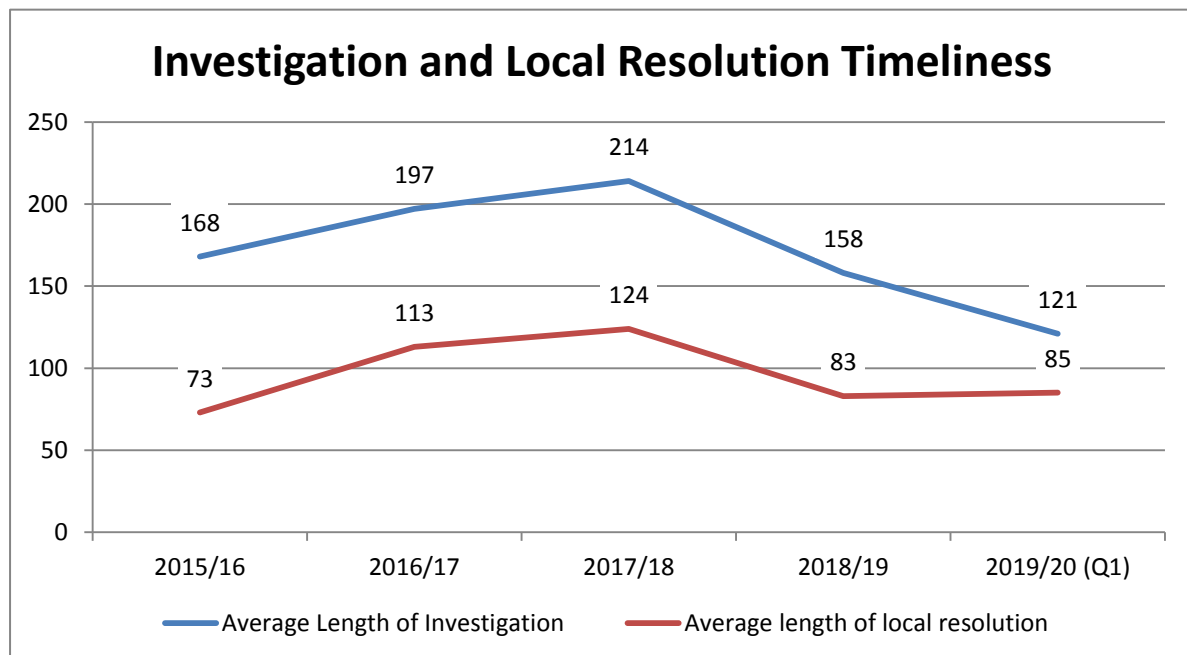


Figure 2. Average number of days for a full investigation (blue) and average number of days for a local resolution (red).

Appeals

21. The percentage of appeals upheld within WMP PSD is similar to our most similar forces (MSF). Since April 2019, 13 force investigation appeals were completed with one being upheld (equivalent to 8%), compared to the MSF average of 10%.
22. In terms of those appeals investigated by the IOPC, only two appeals have been completed to date and neither were upheld, compared to the MSF average of 26%.
23. In the same period, 67 force local resolution appeals were completed. Of these 67, 12 were upheld, equivalent to 18% which is the same percentage as the MSF average.
24. In terms of the timeliness of all force appeals, for the first quarter of 2019/20, force appeals took an average of 82 days to complete, down from 240 days at the end of 2018/19. Whilst this data has been skewed to some degree by the clearance of historic appeals since January 2019, this still represents a reduction from an average of 128 days prior to this work commencing.
25. Work continues within the department to identify and disseminate any learning from the upheld appeals process.

Service Recovery

26. The Service Recovery Team continue to achieve success in reducing the number of expressions of dissatisfaction recorded as formal complaints.
27. Between April and August 2019, 509 out of 678 cases have been service recovered, equivalent to 75%. As shown in Figure 3 below, this has consistently been above the target of 70% since April 2019.

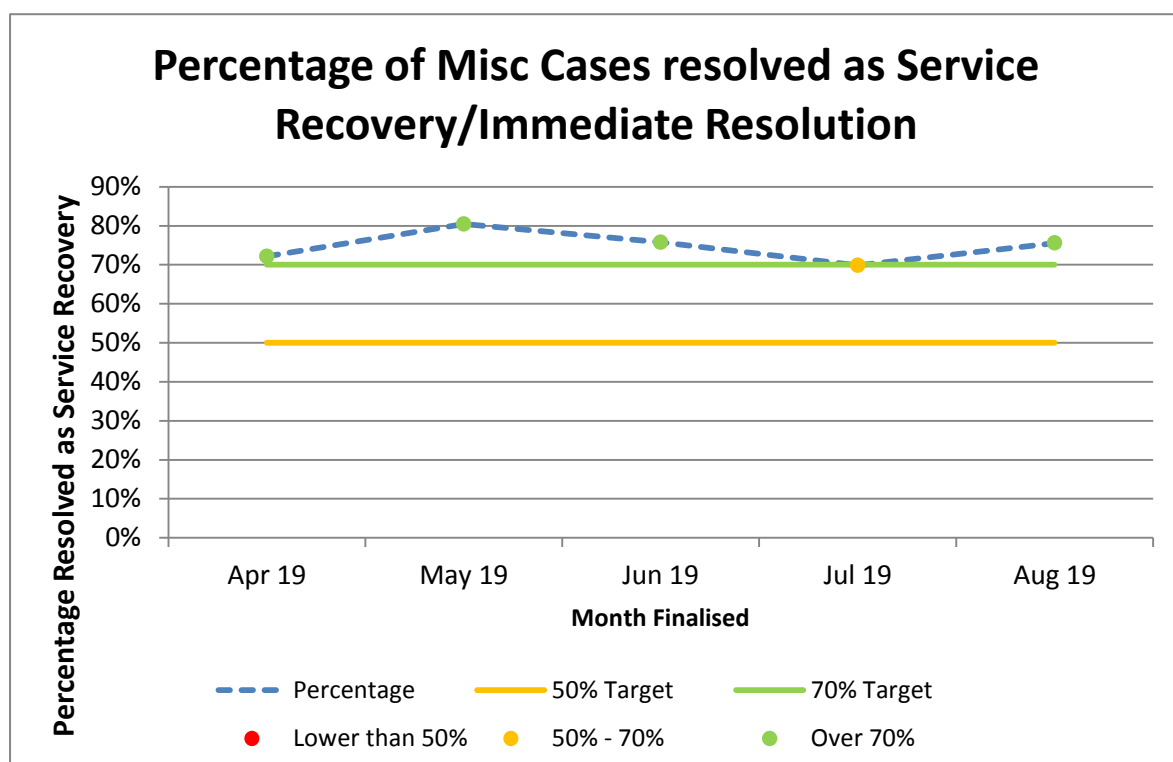


Figure 3. Percentage of Miscellaneous Cases Resolved as Service Recovery.

Counter Corruption Unit

28. The Counter Corruption Unit continues to prioritise investigations focused on abuse of authority for sexual gain and serious police corruption.
29. Work is also underway to enhance how the department proactively identifies and responds to staff breaching standards of professional behaviour.
30. Due to the sensitive nature of the work undertaken by the department, further updates will be delivered directly to the PCC.

Conduct Matters

31. Conduct matters are those instances where the standards of professional behaviour of officers or staff fall below those expected, to the extent that disciplinary proceedings (resulting in sanction of Written Warning or above) could be required.
32. Between April – August 2019, 70 conduct cases have been recorded and, based on the first five months of this year, there is likely to be a marginal increase in 2019/20 compared to the previous year (143 conduct matters in 2018/19). It should be noted, that this data does not show the increasing complexity and seriousness of the investigations, which, in turn, is lengthening the time taken to complete. This has resulted in a comparatively high number of conduct matters to complaints.

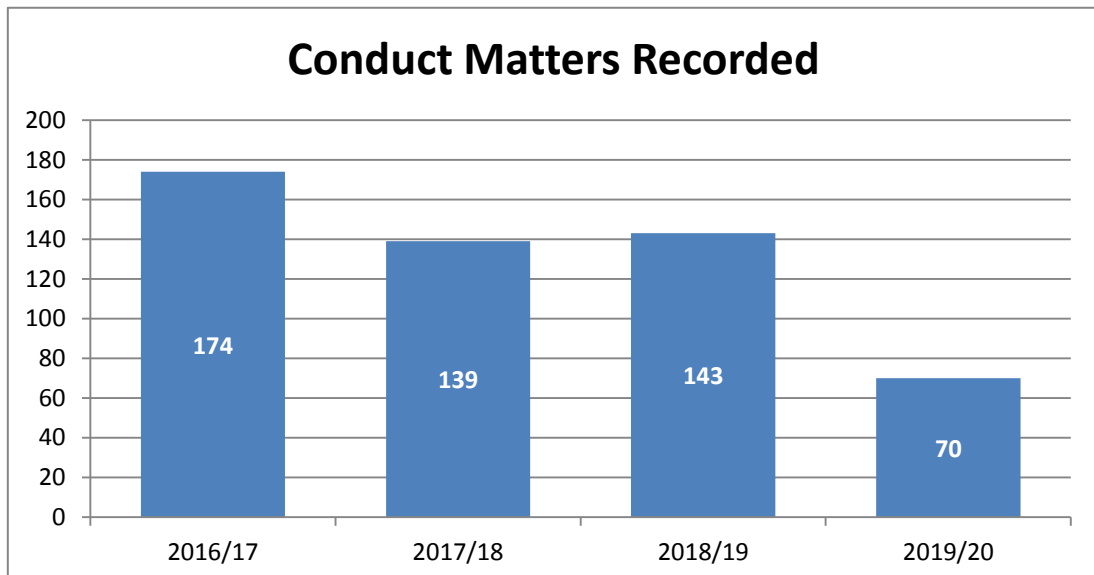


Figure 4. Number of Conduct Matters recorded per year

33. Discreditable Conduct continues to represent the highest proportion of all allegations at 43% (58 allegations), followed by Honesty and Integrity (15%),

Authority, Respect and Courtesy (14%) and Equality and Diversity (8%). It is worthy of note that the vast majority of discreditable conduct cases relate to off duty criminality. Since April 2019, there have been no new Use of Force allegations.

34. The WMP Whistleblowing Policy is in place and recent cases indicate the policy is being used by staff to report breaches in standards of professional behaviour.

Misconduct Proceedings

35. Since April 2019, there have been 17 officers and staff who have attended disciplinary proceedings, resulting in four dismissals and one instance where the officer had already left WMP, but would have been dismissed had they still been employed by WMP. A full breakdown is detailed in Figure 5 below.

Type of Misconduct Proceedings and Outcome	2016/17	2017/18	2018/19	2019/20
Hearing - Special Case	13	12	11	4
Dismissal Without Notice	13	11	10	3
Would Have Been Dismissed				1
Final Written Warning		1	1	
Hearing	22	15	9	1
Dismissal Without Notice	5	1	3	1
Would Have Been Dismissed			2	
Final Written Warning Extension	1			
Final Written Warning	4	1	1	
Written Warning	2			
Management Advice	4			
No Action		3		
Not Proven	4	10	3	
Proceedings Discontinued	2			
Meeting	12	27	23	9
Final Written Warning	1	6	5	1
Written Warning	3	2	9	4
Management Advice	6	6	3	2
No Action		2	5	2
Not Proven	2	11	1	
Staff Disciplinary	4	3	15	3
Dismiss Without Notice if Gross Misconduct	1		1	
Would Have Been Dismissed			1	
Final Written Warning Extension		1	2	
Final Written Warning	2	1	9	1
First Written Warning		1	2	2
Proceedings Discontinued	1			
Grand Total	51	57	58	17

Figure 5. Outcomes from Meetings and Hearings, 2016/17-2019.

IOPC Referrals

36. There are defined criteria for investigations which must (mandatory referral) or voluntarily be referred to the IOPC for consideration. A referral to the IOPC does not necessarily indicate any fault on the part of the member of staff or the wider force, but ensures a level of independence, reinforcing public confidence in the process.
37. To date this year, there have been 105 referrals to the IOPC, of which 20 have been deemed suitable for independent investigation, 62 requiring local investigation and 23 to be dealt with as WMP deem appropriate (i.e. no investigation necessary unless WMP decides otherwise).
38. In 2018, the Director General of the IOPC provided a list of complaint categories they seek to prioritise and investigate independently. The first categories for prioritisation were abuse of position for a sexual purpose (APSP) and road traffic incidents (RTI) (injuries resulting from police pursuits, for example).
39. Between 1st January and 11th July 2019, there have been 26 referrals to the IOPC for RTIs. Of these, seven were retained for independent investigation, 17 were deemed appropriate for local investigation, and two were returned as no investigation necessary.
40. Five cases of APSP were also referred to the IOPC, with two investigations being retained for further investigation.
41. The IOPC have now prioritised a number of other categories of referrals: Near Misses in Custody, Discrimination cases, Mental Health cases and Domestic Abuse cases. The breakdown of how many referrals were taken as independent investigations in the same time period is shown in Figure 6.

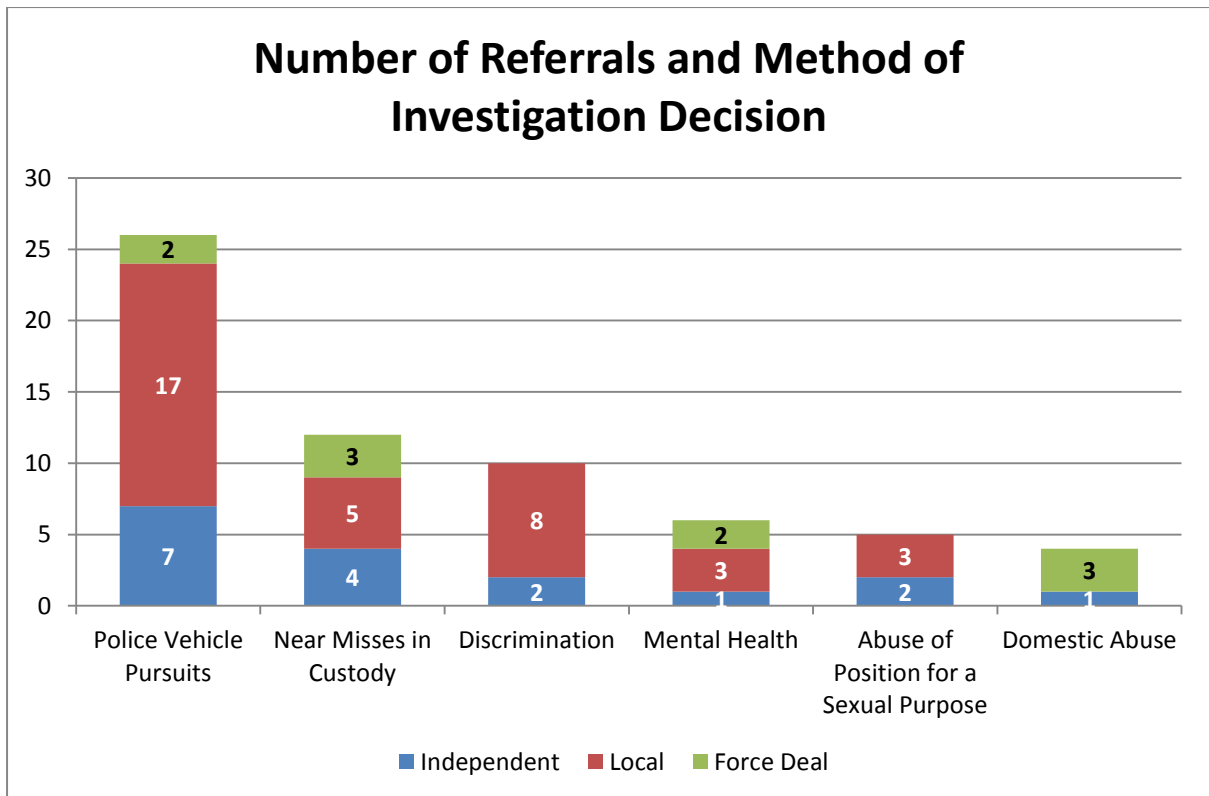


Figure 6. The number of referrals to the IOPC split by topic and method of investigation.

Disproportionality Rates

42. As detailed in Figure 7, the levels of disproportionality amongst complainants continues to fluctuate over the course of the year. However, it should be noted that only 34% of complainants declare their ethnicity, making it difficult to assess overall representation.
43. To explore this issue further, a sample of complainants who do not declare their ethnicity have been analysed. In many cases, complainants are not actively withholding this information, but are choosing to submit their complaints by other means such as via email or letter which inhibits our ability to capture this data.
44. To address this, PSD are changing the process for the submission of complaints. A new online complaint form will go live within the next two months, which will encourage complainants to submit this information prior to submission. Whilst complainants will have an option to 'prefer not to state', it is expected that this will increase the data collected which will aid future analysis.
45. PSD will work with Staff Associations and the Independent Advisory Group to address this issue and it will feature as a central component within the departmental diversity and inclusion plan.

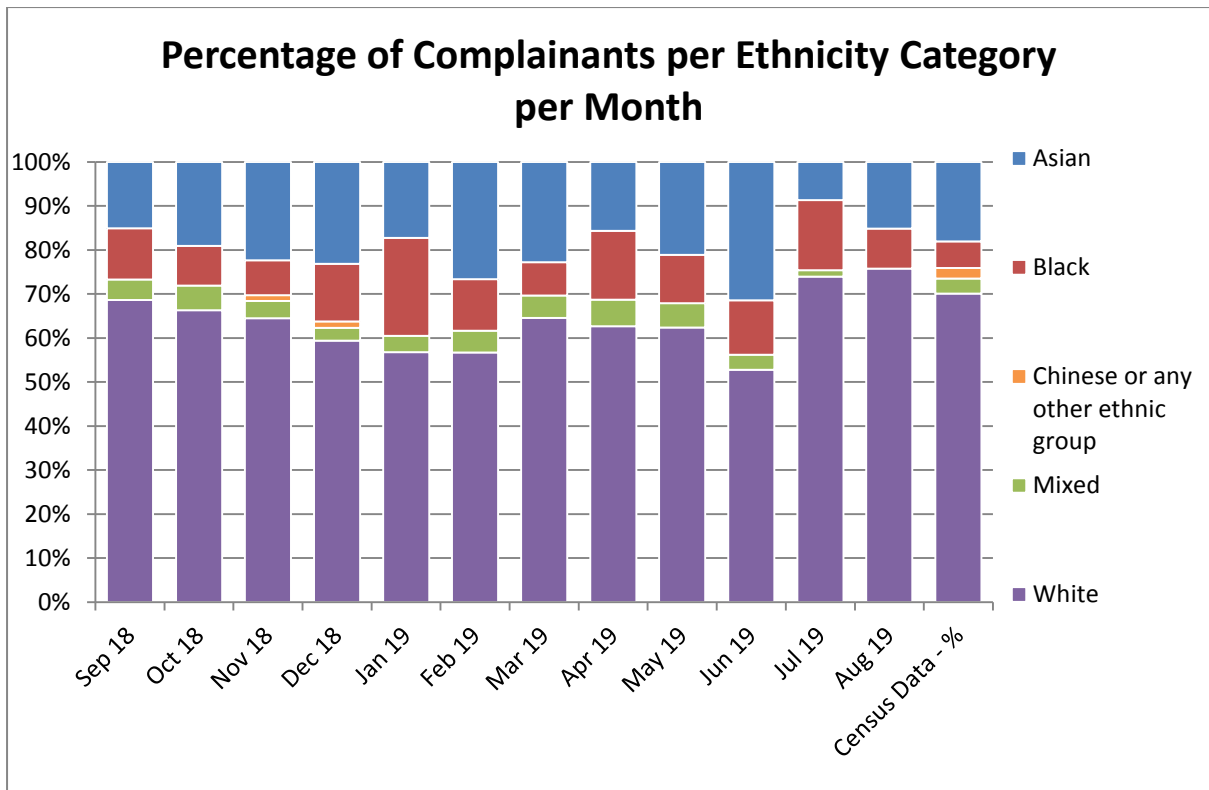


Figure 7. Ethnicity of complainants by percentage.

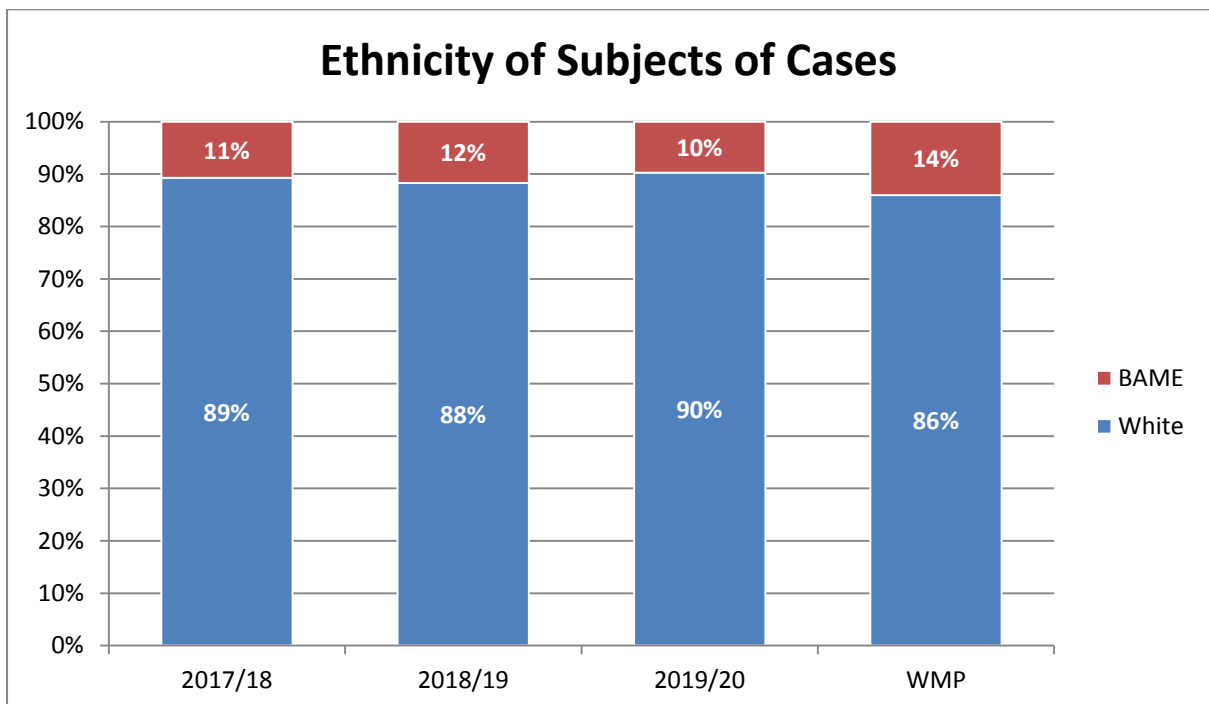


Figure 8. Ethnicity of subjects of complaints compared to WMP workforce data.

46. Analysis indicates that officers subject to misconduct proceedings are proportionately represented across ethnic groups. This is also the case across allegation categories.

47. In 2016, work was undertaken by the force's strategic intelligence team to explore perceptions that BAME colleagues were treated unfairly through disciplinary proceedings. The key findings and recommendations of the report are summarised below:
- a. The threshold for misconduct proceedings was set too low
 - b. The timeliness of investigations undertaken was too slow
 - c. A lack of updates to subjects of investigation enhanced perceptions of unfairness
 - d. The department was not held to account
 - e. Welfare of those under investigation was not considered
 - f. Diversity data should be recorded and presented
 - g. Performance data should be captured and presented
 - h. Internal scrutiny to processes should be applied
48. All observations and recommendations have now been addressed and continue to be monitored via the Quarterly Performance Review process chaired by the Deputy Chief Constable.
49. The department also engages in quarterly reviews with the wider Force Executive Team, Force-wide Stakeholder Engagement Group including members of the Staff Associations, Union and Federation representatives and the new Independent Advisory Group. This group discusses case studies to gauge public opinion as well as addressing any relevant community issues.

Vetting

50. When the totality of vetting options are assessed, the force is confident 80% of the workforce have current vetting of one level or another³. Of the remaining 20%, all will have received vetting on entering the organisation, but their review may now be overdue.
51. The vetting department is currently subject to a Business Transformation Project, which aims to modernise vetting procedures and maximise efficiency within the team.
52. The introduction of online applications will improve the customer experience for both internal and external applicants, providing a digital solution that will auto populate the vetting IT database, preventing double keying and other administrative processes. On-going work with IT&D involving robotics, will also automate other parts of the recruitment/vetting process, leading to greater efficiencies.

³ RV, MV, CTC, SC, DV

53. The vetting department processed 4,794 vetting applications in 2018/19 which is an average of 400 per month (see figure 9). This is expected to increase over the next three years as a result of efficiencies allowing additional recruitment, the national police officer uplift, WMP Estates Programme and the Commonwealth Games 2022.
54. The vetting transformation project is working closely with the police officer uplift project to ensure vetting applications are completed within the required time limits.
55. Due to abstractions and two vacancies, the backlog of applications has risen over the last 12 months. Part of the backlog is attributed to the uplift in police investigators as part of Project Guardian. To address this, the recruitment process will ensure all roles are filled and funding has been provided for two vetting staff (12 month fixed contracts) to reduce this backlog.
56. The importance of aftercare vetting remains a key area of work for the department. A dedicated team of vetting staff are working towards a three year plan to ensure every member of staff working for WMP has up to date vetting. There has been a 9% increase in the number of staff with up to date Recruit Vetting since February 2019 (from 43% to 52%). Changes to Management Vetting have also enabled Recruit Vetting to be completed at the same time, avoiding duplication of checks and ultimately resources.

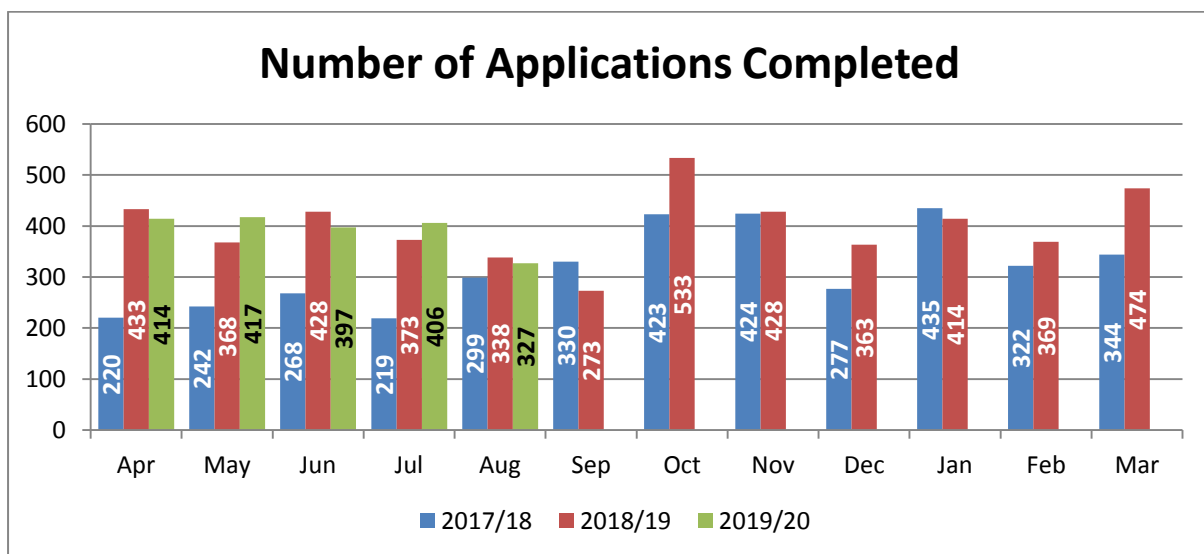


Figure 9. Number of Vetting Applications Completed per Month

Body Worn Video

57. The WMP2020 project has now delivered Body Worn Video (BWV) cameras to all frontline officers, with Firearms and Response officers utilising the capability since 2017/18.

58. Analysis indicates there has been a reduction in the proportion of complaints recorded against Response officers from 33% prior to the roll out, to 21% in 2018/19. There has also been a similar fall in the number of allegations against Response officers from 267 in 2018/19 to 89 since April 2019.
59. Firearms officers historically receive a low number of allegations and so it is more useful to analyse the volume of allegations received, rather than the percentage. In previous years, Firearms officers received an average of 11 allegations per year, however that fell to four in 2018/19 and four so far in 2019/20.
60. Following the roll out of BWV to all frontline officers in July 2018, there has been a reduction in the number of allegations recorded from 842 prior to roll out, to 355 for the 12 months thereafter.
61. Whilst other factors may contribute to this decrease, this supports the findings from the original randomised trials that their introduction would reduce the number of complaints made against frontline officers.

Financial Implications

62. The current budget for 2019/20 is £78,000, and does not include regular staffing costs. This is broken down into £22,000 for officer and staff overtime, £27,400 for temporary and agency staff costs, and the remaining £28,600 accounting for all other costs within the department.

Next Steps

63. The board is asked to note the report and progress made by PSD following departmental changes.

Authors: Detective Chief Inspector Julian Harper and Appropriate Authority 53862
Ward on behalf of DCS Chris Todd, Head of Professional Standards