

## STRATEGIC POLICING AND CRIME BOARD

Tuesday 23 November 2021

### Complaints and Reviews

#### Purpose of paper

1. This report provides an update on the work to undertake review of complaints against West Midlands Police.

#### Background

2. The police complaints system is the mechanism by which the public may raise their concerns about the service they receive from the police force. The system was updated by the Policing and Crime Act 2017, and the Police (Complaints and Misconduct) Regulations 2020. The new complaints system brought a more streamlined, easier to access and more efficient complaints process. It broadened the definition of a complaint which until that time had been restricted to the conduct of a specific officer, and introduced a new duty for police and crime commissioners to undertake the appeals - now known as reviews.
3. Police and Crime Commissioners have statutory responsibility for:
  - the local oversight of complaint handling;
  - acting as an independent Review Body for some complaints that have been made through the formal complaints system;
  - dealing with complaints made against the Chief Constable, a role known as the Appropriate Authority.
4. There are a number of ways in which we maintain oversight of police professional standards. We have an annual report to SPCB (November), and the Commissioner and Assistant PCC have quarterly meetings with the Head of PSD. In addition, staff meet quarterly with the IOPC Oversight Manager who is able to provide advice and updates on work of the Force as well as our own work on reviews. IOPC publishes annual performance data which provides a useful benchmark, and their next bulletin is due for publication in November 2021. Internal audit undertook an audit of the review processes after the first year of operation, and this provided useful feedback and improvements to the way we administer and organise the reviews.
5. The legislation also offered PCCs the opportunity to play a wider role in the administration and the handling of complaints against the police. There were three options to choose from, commonly referred to as Models 1, 2 or 3, and the majority of

PCCs opted for Model 1, which centres on the responsibility for undertaking the reviews. Model 1 is in place for the West Midlands, and complaint reviews are undertaken by the Complaints Review Manager (CRM), who has been in post since early 2020.

### **Complaints Reviews**

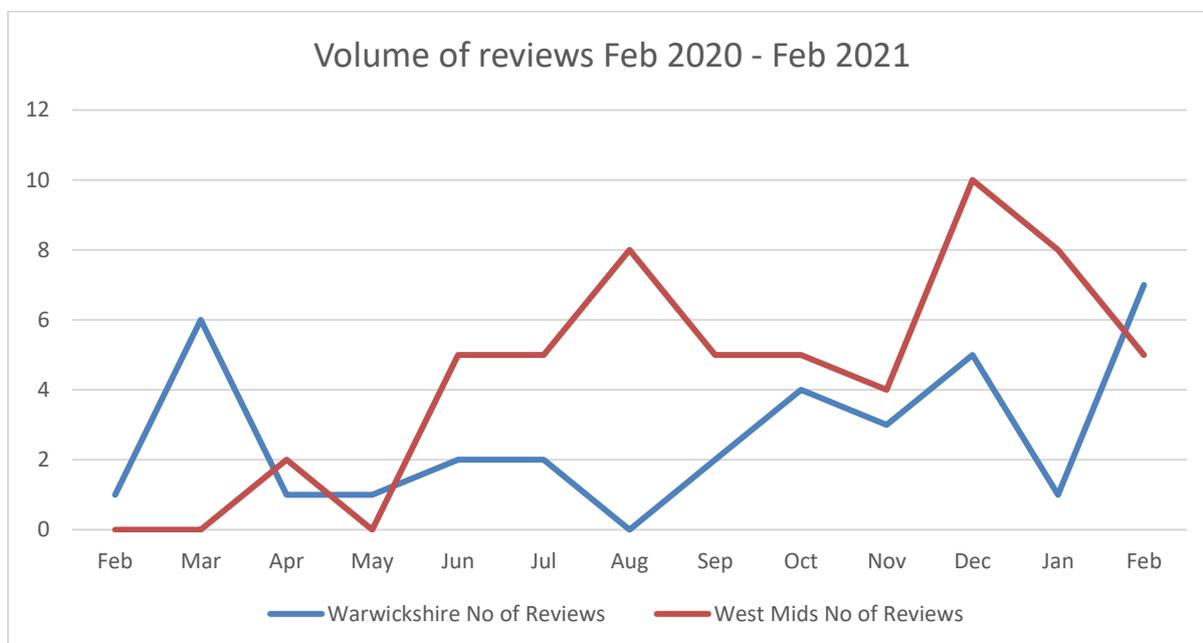
6. In February 2020 Warwickshire and the West Midlands decided to work together to deliver the Review function, as both had opted for Model 1. A collaboration was formed between the two organisations and the reviews function was designed to support both offices, with West Midlands being the lead organisation employing the CRM. The agreement is subject to annual review, with a three-month termination clause. The funding apportionment has been 87.5% and 12.5%, which equates to 3.5 and 0.5 days per week respectively for West Midlands and Warwickshire. The working hours of the CRM have recently been increased to include 4 days per week dedicated to West Midlands.
7. The reviewer's role is not to reinvestigate the case, but instead it is to make an assessment as to the handling of the complaint and whether it has been managed in a reasonable and proportionate manner. The CRM is also the Appropriate Authority and decision maker and manages the process in accordance with the regulations. Following the completion of a review there is no further right of appeal. If the complainant remains dissatisfied the only option remaining option would be to pursue civil proceedings or a judicial review application. In 2020 one complainant informed us of their intent to apply for a judicial review. In that case the matter was resolved to the satisfaction of the complainant when remedial actions were taken by West Midlands Police.
8. In the first year, between February 2020 and February 2021, between Warwickshire and the West Midlands there were 92 (57 West Midlands and 35 Warwickshire) reviews completed with an average turnaround time of 28 days (the actual length of time varies significantly between the most complex reviews and those which are more straightforward). Although there is no completion time specified in the regulations for reviews, this is an improvement on the old regulations where, for the last three quarters of 2019, it took the West Midlands Police, on average, 35 days to complete an appeal. Whereas the new regulations have seen an increase in reviews/appeals in Warwickshire, in the West Midlands they appear slightly lower.
9. The most commonly noted themes of the complaints that led to reviews were incivility and dissatisfaction with police investigations.
10. The working hours required to complete a review varies and sometimes can be relatively quick, but in many cases it is more significant and reviews can each take several days to complete. In addition we have found that in most cases there are continuing queries after a review is completed, which again adds to the workload.

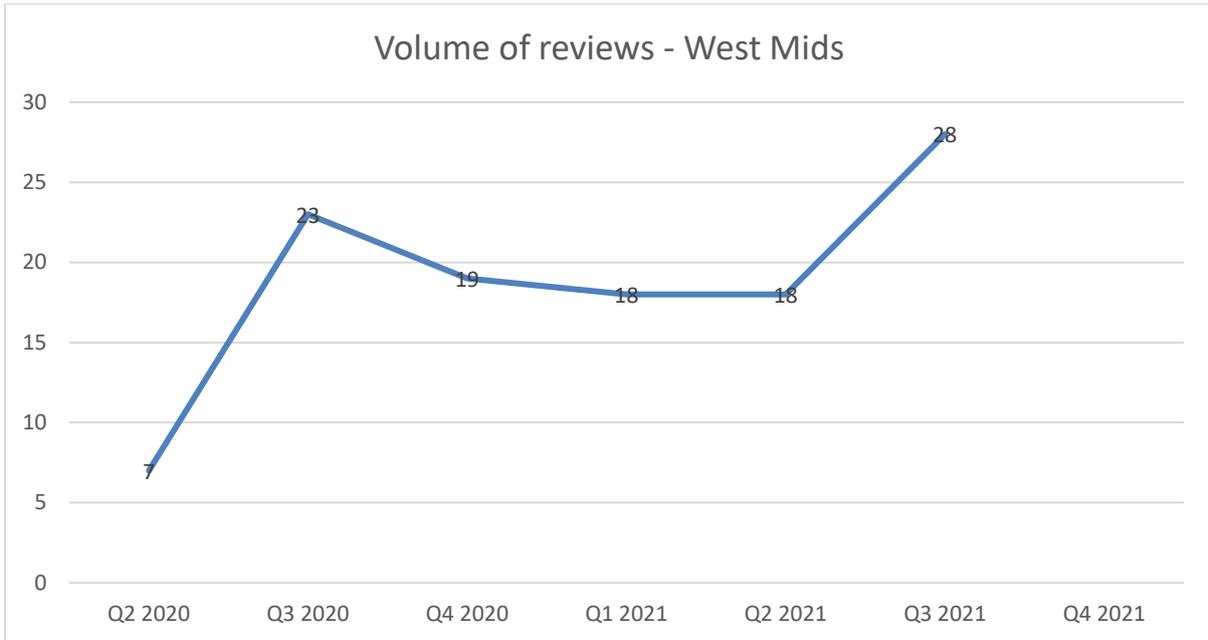
### Volume and expediency of reviews – West Midlands

11. Below is the average turnaround and total volume of complaint reviews for the West Midlands, broken down into quarters starting from Q1 2020:

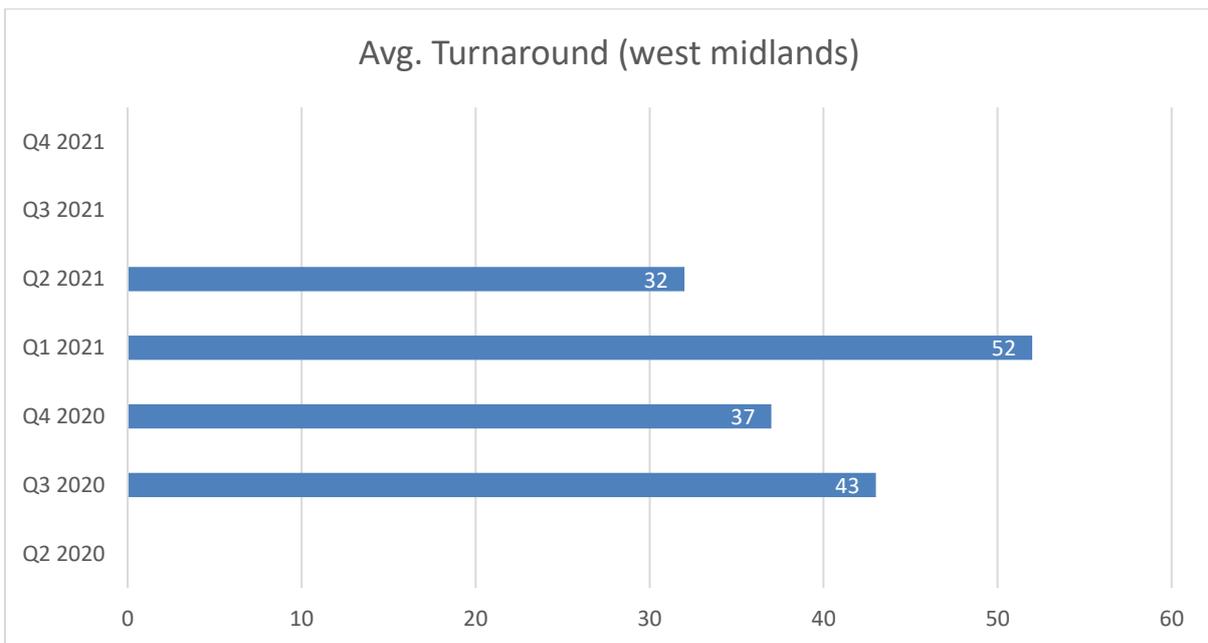
Quarter	Avg. Turnaround (days)	No. of reviews
<b>2020</b>		
Q1 2020	N/A	0
Q2 2020	29	7
Q3 2020	43	23
Q4 2020	37	19
<b>2021</b>		
Q1 2021	52	18
Q2 2021	32	18
Q3 2021	N/A	25
Q4 2021	N/A	N/A

Data can also be visualised with the following charts





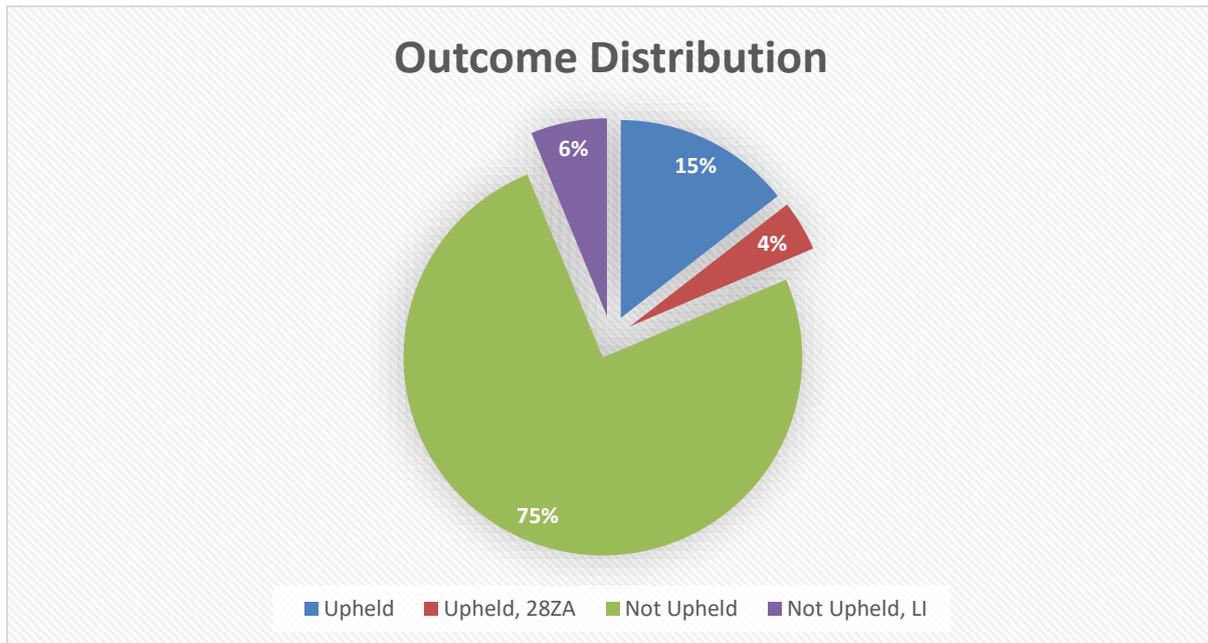
Data relating to expediency can be visualised with the following chart



### Outcomes of Reviews

12. The outcome of reviews falls 4 categories:

- Upheld
- Upheld, remedied under schedule 28ZA of the Police Reform Act 2002 (recommendation with a view to remedying the dissatisfaction of a complainant)
- Not upheld
- Not upheld, organisational learning identified



13. A number of recommendations have been made to the Force as a result of reviews – 53 recommendations arising from 20 upheld reviews – and we are in the process of developing a systematic way of monitoring Force response to recommendations and how any learning becomes embedded. We are working with PSD to have a shared process for monitoring the response to recommendations, and will have more information on this in time for the next report.
14. Recommendations made so far are detailed and very specific to the subject of the complaint. We have however identified the following two broad themes which account for the majority of the recommendations –
- Communication on the part of WMP – many of the recommendations relate to the provision of adequate information and updates to the complainant both before and during the management of their complaint.
  - Offering an apology – in a number of cases the recommendation was that an apology be offered.
15. In addition, there are some secondary themes which occur moderately in review outcomes. These relate to:
- Crime Recording
  - Reflective Practice Reviews Process (RPRP)
  - Return of property
  - Use of BWV Cameras
  - Actions of officers in custody
16. There were also a very small number of recommendations related to the correct scoping of the complaint and allegations, and ensuring that the correct matter was captured and recorded.

### Future developments

17. Warwickshire PCC has decided to develop its own in-house complaints review function and this will take effect from April 2022. This is timely for us, as the overall workload in the West Midlands is growing, becoming excessive for just one member of staff. This development will enable the CRM to focus entirely on West Midlands reviews.
18. In September a national workshop took place to share best practice on complaints reviews, and a common emerging theme was a need for more staff and resources in order to undertake this function effectively. Whilst the majority of OPCCs had one or two full time staff dedicated to the work, many said that they were planning to increase the size of their team. This is something we will monitor and keep under review.
19. The number of reviews undertaken by West Midlands is very low in comparison with other PCCs, at approximately 50% of the level experienced by PCCs covering other large police forces. This is likely to be related to the way in which PSD has managed complaints during the same time period, with an emphasis on early service resolution. PSD is now moving towards recording more complaints under Schedule 3, which could have the effect of increasing the number of reviews. We will monitor this closely over the coming months to ensure that our staff resource is sufficient to meet demand.
20. A 'Complaints Hub' is being developed on the PCC website which will give a range of information, advice, and access to complaints systems. This will include complaints about West Midlands Police and also complaints about the OPCC.

### **Dip Sampling**

21. PCCs have an explicit duty to hold police forces to account for the way in which complaints are managed. One way in which we will do this is to undertake a dip sample of completed complaints cases. The dip sample process will also be used to examine misconduct and vetting processes. There will be three dip sampling sessions each year with the first taking place immediately after this meeting, and the second on 8 December. SPCB members have been invited to participate. Results of the dip sample will be shared with the Commissioner and members of the SPCB.

### **Pension Forfeiture**

22. In the very small number of cases where police officers are convicted of serious criminal offences, and their offending was carried out in connection with their role as a police officer, the Commissioner has the power to forfeit part of their police pension. In 2019 there were two pension forfeitures, in 2020 there were three forfeitures, and so far this year there has been one forfeiture.

### **Financial Implications**

23. The staff costs associated with the complaints review function are contained within the budget of the Police and Crime Commissioner.

### **Legal Implications**

24. The framework for managing police complaints and reviews is heavily regulated, and is contained in the Police Reform Act 2002, and the Police (Complaints and Misconduct) Regulations 2020.

### **Equality Implications**

25. The oversight and scrutiny function related to complaints and professional standards will consider how effective the Force is in delivering a complaints process which is equality driven. To assist with this, the first round of dip sampling will focus solely on complaints of

discrimination. The Police and Crime Plan includes a commitment to advancing equality, diversity and inclusion, and this is reflected in our oversight work.

### **Next Steps**

26. The board is asked to note the contents of this report.