

STRATEGIC POLICING AND CRIME BOARD

Tuesday 28th November 2023

Complaints and Reviews

Purpose of paper

1. This report provides an update on the work to undertake reviews 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 process was updated by the Policing and Crime Act 2017, and the Police (Complaints and Misconduct) Regulations 2020. The new complaints system broadened the definition of a complaint which previously had been restricted to the conduct of a specific officer, and introduced a new duty for police and crime commissioners to undertake reviews (previously called appeals).
3. This is the third annual report on complaints and reviews work undertaken by the PCC since the inception of the new Regulations.
4. Police and Crime Commissioners have statutory responsibility for:
 - the local oversight of complaint handling, which is the 'holding to account' function;
 - acting as an independent Review Body for some complaints that have been made through the formal complaints system (these are the complaints which do not have any indication of criminal activity or possible misconduct);
 - dealing with complaints made against the Chief Constable, a role known as the Appropriate Authority.

5. 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 has 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, and the Commissioner also has quarterly meetings with IOPC. The IOPC publishes annual performance data which provides a useful benchmark against most similar Forces.
6. There is also an expectation that PCCs achieve oversight of the complaints function as a result of the knowledge and insights gained during the complaints review process, and use this oversight as a lever to positively influence the complaints system. In practice this means that some of our responses to complaint reviews are communicated to PSD as 'oversight' rather than as a formal response to a complaint review. Oversight ranges from strategic matters through to details concerning individual complaints. Oversight normally relates to PSD or WMP performance but can also relate to individual complaints.

Complaints Reviews

7. The Complaints Review Manager's (CRM) 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. Following the completion of a review there is no further right of appeal. If the complainant remains dissatisfied the only option remaining would be to pursue civil proceedings or a judicial review application. Historically, some people remain dissatisfied after their review is completed and a small number of these people have sent 'letters before action' indicating that they intend to pursue civil litigation (although none of those have in fact resulted in any legal proceedings taking place). We have received no letters before action following completed reviews in 2022-2023.
8. The number of reviews has fluctuated since the new regulations were introduced. In 2020-2021 we received 62 requests. In 2021-2022 we received 126 requests. In 2022-2023 we received 167 requests, and in the first 6 months of 2023-2024, we received 35 requests. We have also seen a decrease in reviews as the backlog of complaints has now gone, and the reviews arising from those complaints have been completed. We aim to complete reviews within 20 working days. During the surge in review numbers

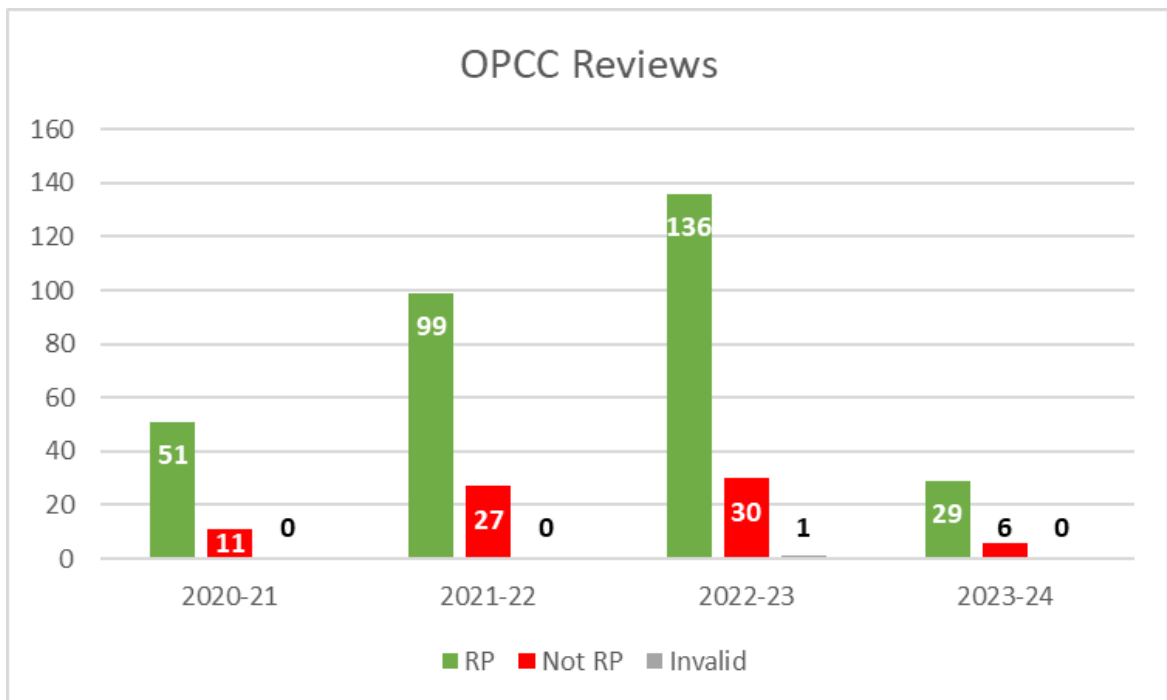
the average response time increased; we can now see that our average response times have fallen below 20 working days.

Performance Information

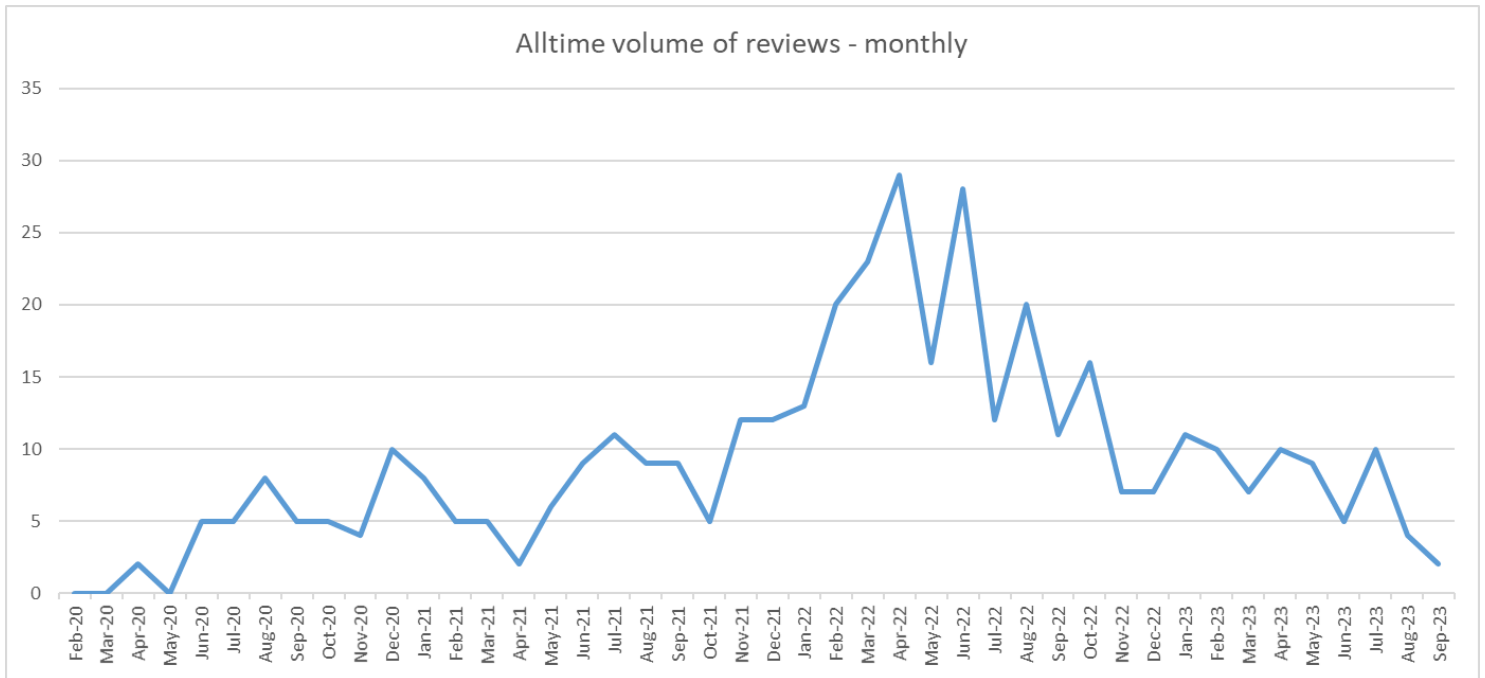
9. The next sections of this report are dedicated to performance and cover the following:
- Volume of reviews received
 - Time taken to complete reviews
 - Outcomes of reviews
 - Themes of complaints subject to review

Volume of reviews received

10. The below chart displays the total volume of reviews received across 3 financial years and details decisions made on these reviews. reasonable and proportionate (RP), not reasonable and proportionate (not RP) and invalid.



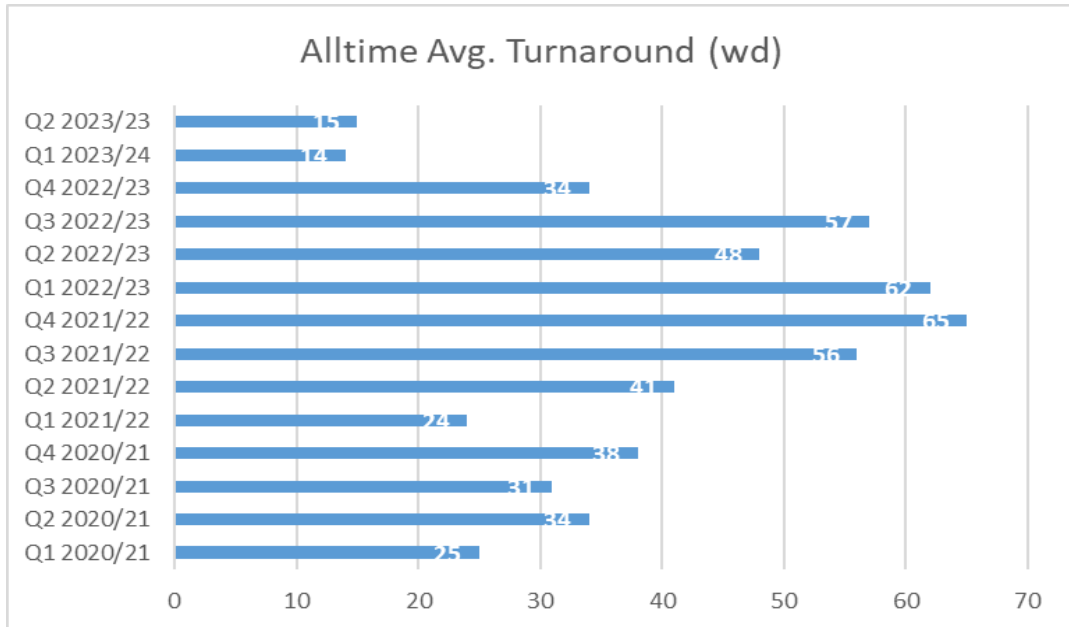
11. A month by month breakdown can be viewed below.



12. Review requests remained low between February 2020 and January 2022. However, as indicated above, they began to sharply increase in February 2022. This is primarily due to PSD's efforts in clearing their complaint backlog. As complaints were being rapidly resolved, more complainants were able to request a review. Requests for review have begun to stabilise, with similar fluctuations to pre-November 2021.

Time taken to complete reviews

13. The below chart displays the average turnaround time for reviews received in a specified quarter over a three-and-a-half-year period.



14. The time taken to complete a review has fallen alongside the overall number of reviews.

15. IOPC data shows that Most Similar Force (MSF) turnaround time for this reporting period ranges from 30 to 67 working days.

Outcomes of Reviews

16. There are a number of possible outcomes set out in the Complaints Regulations.

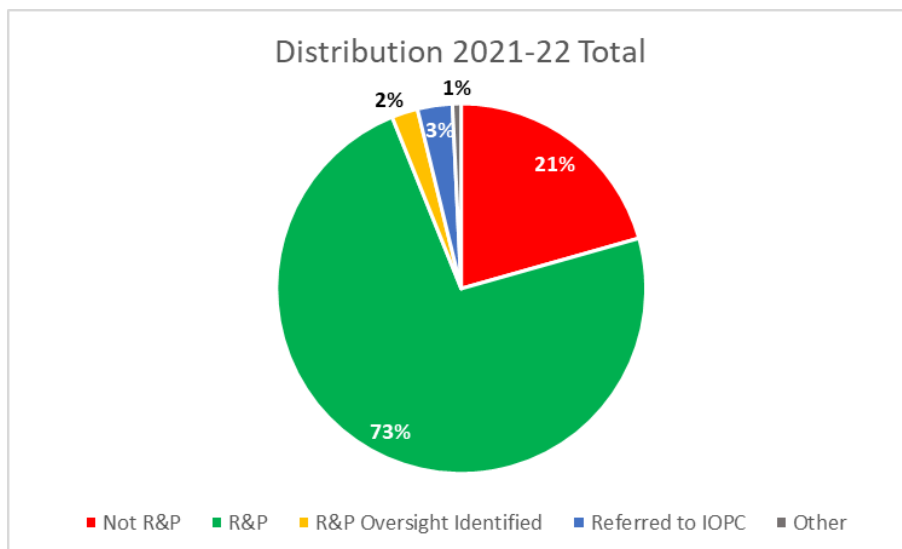
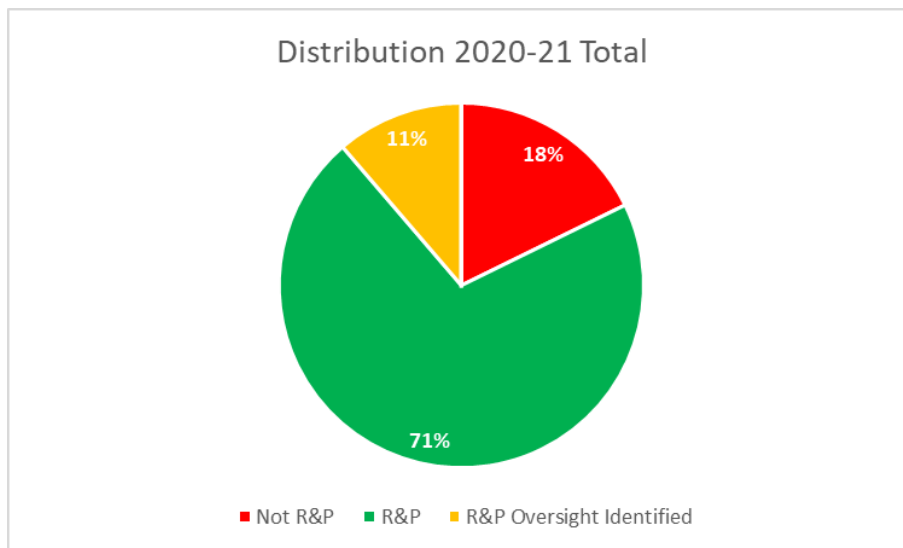
Possible outcomes can be summarised as:

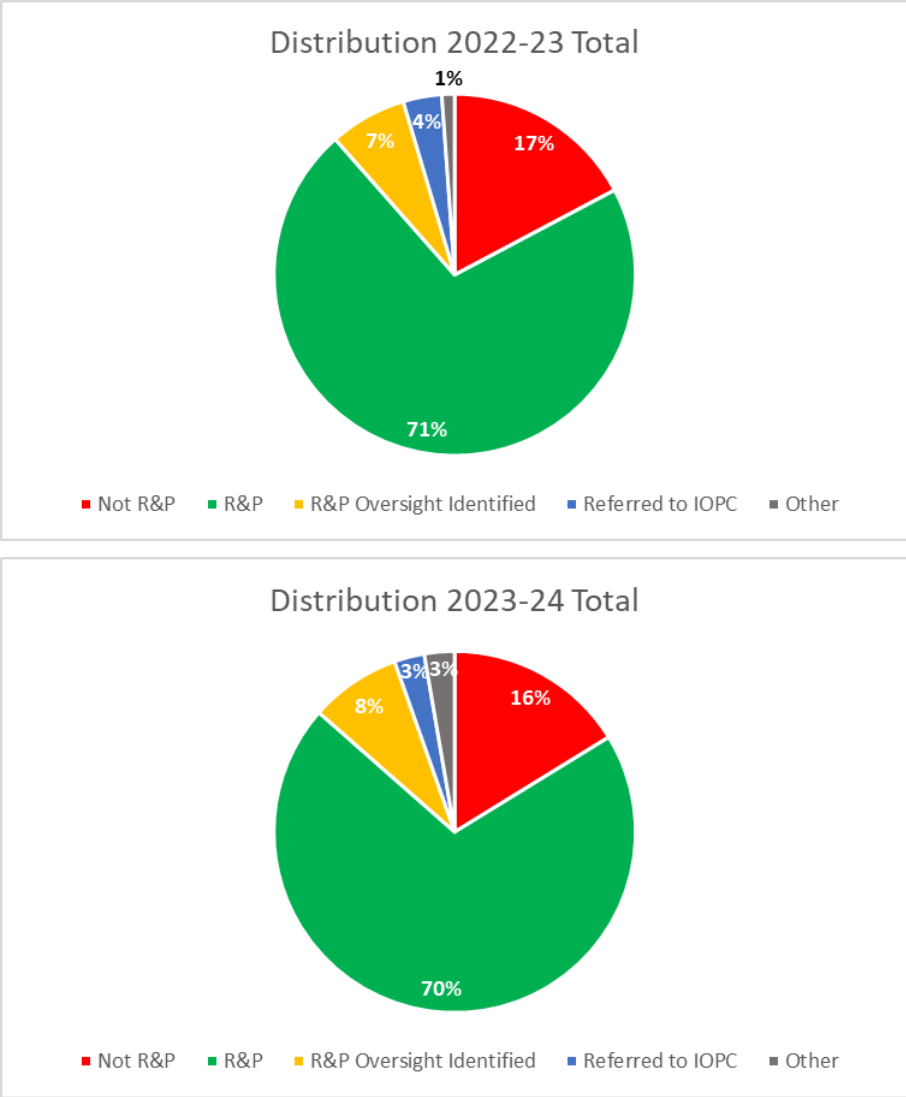
- Complaint handling was reasonable and proportionate (R&P), so the review is not upheld
- Review request is not valid
- Complaint handling was not reasonable and proportionate (Not R&P), in which case the following outcomes may be applied:
 - recommend that the appropriate authority refer the complaint to the IOPC
 - recommend that the appropriate authority investigate/reinvestigate the complaint
 - make a recommendation/s. Recommendations can be made with a view to remedying the dissatisfaction of a complainant (paragraph 28ZA,

Schedule 3, Police Reform Act 2002, or in complaints which have been investigated, recommendations may relate to a person serving with the police (e.g. that the person has a case to answer in respect of misconduct or gross misconduct; or that their performance is not satisfactory).

- Recommend that the matter be referred to the Crown Prosecution Service.

17. The below charts show the outcomes of reviews broken down into four separate financial years:





18. These charts demonstrate that the proportion of outcomes has remained similar between 2020 and 2023.

19. The recommendations made to the Force can be broken down as follows:

Financial Year	Number of recommendations made	Number of recommendations refused
2020-2021	18	0
2021-2022	62	0
2022-2023	44	6
2023-2024	21	0

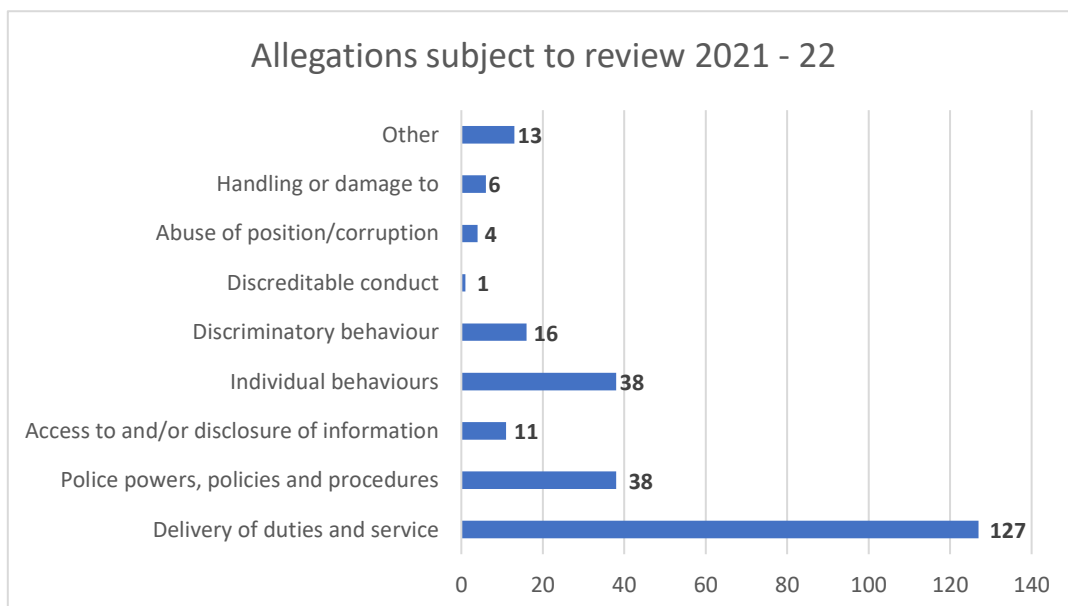
20. A process is in place for monitoring Force responses to recommendations, and how any learning outcomes are embedded. This includes a review of the Force’s letter to the complainant; responding to recommendations made; regular meetings between the

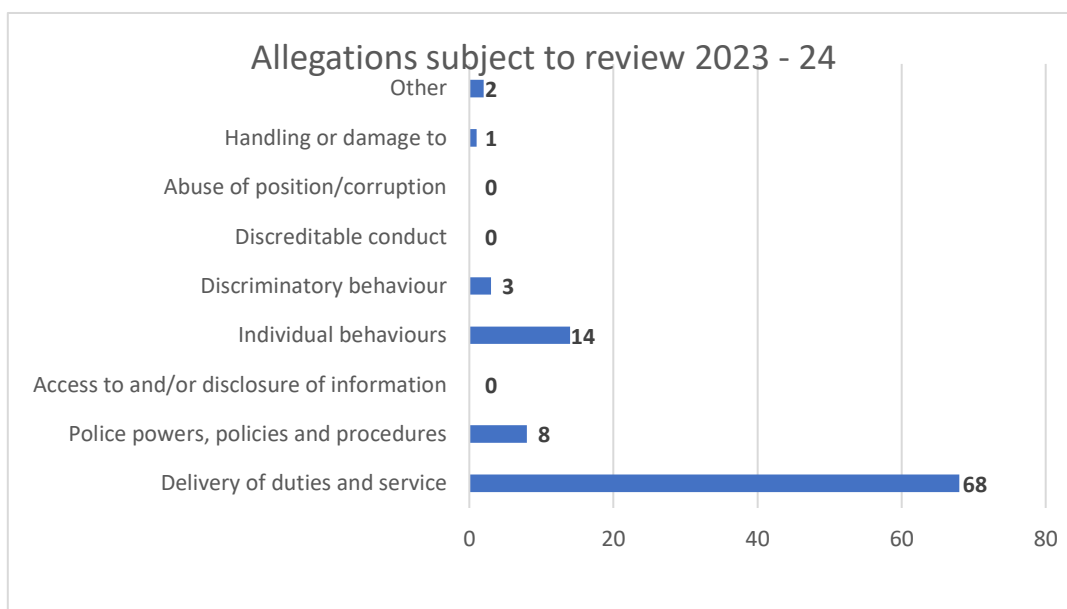
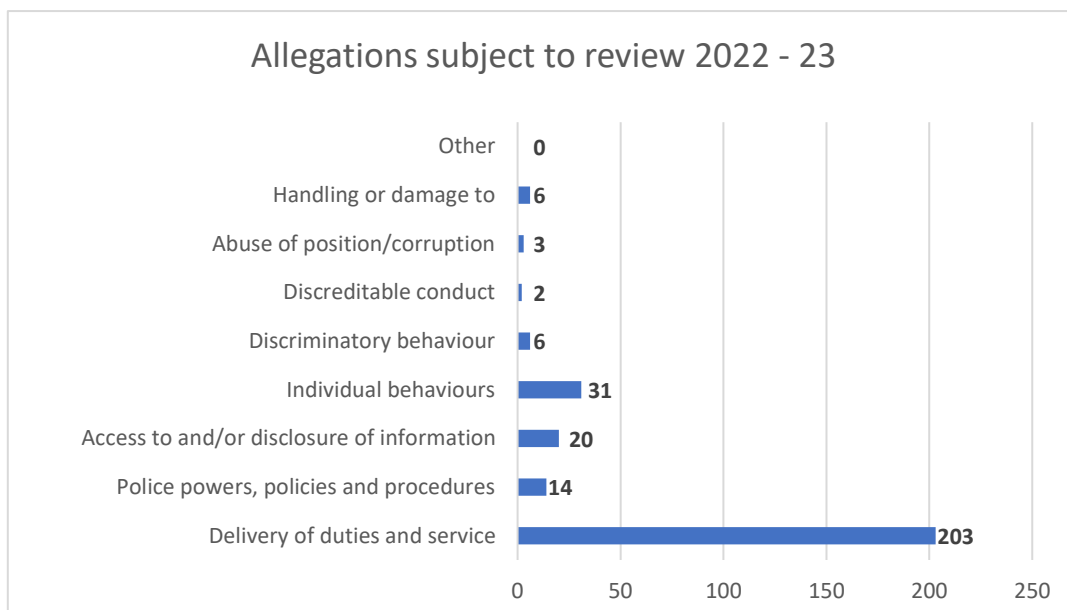
Complaints Reviews Manager (CRM) and the Service Recovery and AA Resilience Manager; and quarterly meetings between the Commissioner and the Head of PSD.

21. Recommendations made are detailed and very specific to the subject of the complaint and so difficult to identify any particular trends.

Allegations subject to review

Below is a breakdown of the themes of the allegations in complaints that have been reviewed by the OPCC:





The above four tables show that the most common category of reviewed complaints is Delivery of Duties and Service, followed by Individual Behaviours and Police Powers, Policies and Procedures.

Observations and future developments

22. A robust complaint review function requires a strong and cooperative working relationship between the complaint reviewer and PSD. The facility to speak regularly and openly with complaints investigators/decision-makers in order to properly understand the background to complaints, and the ability to discuss recommendations and understand their impact and feasibility is critical to a successful process. The large

majority of recommendations made by the CRM are accepted, and are usually discussed and actioned upon.

23. A Complaints Hub has been added to the website, which includes information for complainants and performance information. The Hub signposts and provides easy access to the correct part of the complaints system. The second phase of the Complaints Hub is currently being finalised by our web developers and will include: an interactive reviews performance dashboard, information on dip sampling, an overview of OPCC oversight of PSD and quality of live improvements to existing pages.
24. The CRM is leading a national workstream to introduce an online training and information portal for PCC staff undertaking reviews. This is still in the developmental stage and further information will be provided to a future meeting.
25. The IOPC publishes quarterly complaints bulletins including data on complaints reviews. We have noticed that the information related to West Midlands complaints reviews is inaccurate, and overstates the work we are doing. We are working closely with the IOPC to rectify this in time for future bulletins.
26. The Force has successfully reduced its backlog of complaints, and this focus upon expediency is clearly to the benefit of complainants. The challenge during a complaint process is to ensure and to be confident that the complaint was dealt with in a reasonable and proportionate manner, and provided a high-quality response, whilst simultaneously meeting the targets for timeliness.
27. One of the challenges when undertaking a review is assessing what constitutes 'reasonable and proportionate'. During our reviews we always take the stance that we are assessing what is likely to be the view of the public on what is reasonable and proportionate in response to that complaint.
28. The number of reviews undertaken by West Midlands remains was higher than the most similar Force average in 2022 – 23. This is a change from previous years, where it was lower. We will monitor this closely over the coming months to ensure that our staff resource remains sufficient to meet demand.

Dip Sampling

29. We have undertaken two dip sampling sessions during the 2023 calendar year. In January 2023, 49 completed complaints relating to incivility were examined. In October

2023, 27 completed complaints where the service provided by WMP was found to be unacceptable were examined.

30. In both sessions dip samplers felt that in the vast majority of cases; the complaint had been fully understood and all allegations or concerns addressed; reasonable lines of enquiry were undertaken to be able to provide a reasonable and proportionate outcome and; the proposed actions sought to remedy the issues raised by the complainant as so far as reasonably possible. However, there were some concerns that in a large portion of cases the outcome was not communicated in an empathetic way. This feedback was shared with PSD and we are currently awaiting a response to address matters raised in the October 2023 dip sampling session.

Pension Forfeiture

31. 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 2021 there was one forfeiture, and in 2022 there has also been one forfeiture decision. Two further decisions are currently pending.

Financial Implications

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

Legal Implications

33. 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

34. 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, dip sampling exercises focus partly on equality and potential discrimination during the complaints process. The Police and Crime Plan includes a commitment to advancing equality, diversity and inclusion, and this is reflected in our oversight work.

Next Steps

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