

Warwickshire Joint Audit and Standards Committee Report Summary

Meeting Date: 19 January 2022

Subject: Standards

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Purpose of the report:

The purpose of this report is to provide an update to the JASC on matters relating to police standards.

Recommendation:

To note the report.

Background:

The Terms of Reference for the JASC requires the committee to be enabled to have oversight of, and to provide independent review, of the effectiveness of the adherence to appropriate standards and ethics by the Warwickshire Police and Crime Commissioner and Chief Constable.

Executive summary

The report provides an overview of the Office of the Police and Crime Commissioner and Warwickshire Police in respect of Ethics and Standards, together with updates on local, regional and national developments.

1. Police and Crime Commissioner

1.1 OPCC Structure

Since the last report to the JASC on the 28 September 2021, the Office of the Police and Crime Commissioner (OPCC) has begun to transition to a new structure. In November 2021, Debbie Mullis left the organisation and consequently relinquished responsibility for the Standards and Ethics agenda, including the scrutiny and monitoring of police complaints and the administration of Complaint Reviews. In the interim period whilst the new structure is being fully established, David Patterson (OPCC Assurance and Scrutiny Officer) has added this responsibility to his existing role.

As part of this restructure, in March 2022 the existing Section 22 Police Act 1996 agreement with the West Midlands OPCC to share the Complaints Review Manager (CRM) function with the Warwickshire OPCC will cease. The intention is that under the new OPCC structure all Complaint Reviews will be conducted 'in-house' by two OPCC Assurance and Scrutiny Officers, recruitment is underway to fill the one vacant position. Any excess demand for Complaint Reviews during this transitional period will be conducted by an independent company under contract to the OPCC, once the contractual arrangements and information sharing protocols have been approved by Legal Services.

1.2 Complaint Reviews

Since the last report to the JASC, the OPCC has received 10 legitimate Complaint Reviews. Of these, two have been completed and one referred to the Independent Office for Police Conduct (IOPC) as the correct appropriate Relevant Review Body in that particular case.

Of the two completed Complaint Reviews, following consideration by the CRM of the five allegations contained within these complaints, three recommendations were made and these have been subsequently been accepted by the Professional Standards Department (PSD).

There have also been a further two Complaint Reviews completed since the last meeting of the JASC, which had been received prior to that date. Following consideration by the CRM of the nine allegations contained within these complaints, six recommendations were made and these have also been accepted by PSD. Of note, is that PSD are not legally required to have to accept the recommendations made.

1.3 Complaint Review Internal Audit

During November / December 2021 an internal audit of the OPCC Complaint Review policies, guidance, processes and practices was conducted by the Resources Directorate of Warwickshire County Council. A final report has subsequently been produced, the key findings being: -

- Procedures are not fully documented. The initial steps of the complaint review process have been documented; however, some key parts of the process have not. The impact of recent personnel changes and the impending end of

engagement of the Complaints Review Manager in March 2022 will result in a significant loss of experience with a potential risk to service performance.

- The Development and Policy Lead (Standards and Integrity) advised audit that there had been three occasions where Complaint Reviews submitted were not be captured by the Commissioner on a timely basis.
- A total of nine areas for improvement have been identified from the audit. The associated recommendations have been accepted and a management response provided with specific timescales for completion.
- Overall, the opinion of the auditor was that the existing controls provided **Moderate Assurance** that risks are being managed.

1.4 Complaint Dip-Sampling

With the OPCC restructure and the change in OPCC personnel, compounded with the requirement for vetting clearance to be refreshed, it has not been possible to complete any complaint dip-sampling since the last meeting of the JASC. Arrangements are in hand to remedy this position.

2. Professional Standards Department Update

On the 21 September 2021, the Commissioner met with Superintendent Daf Goddard as the recently appointed Head of Warwickshire Police's PSD to discuss Complaint Reviews processes and explore how their respective offices could better work together to ensure smooth-running, and to also consider PSD's performance metrics.

3. Police Ethics Committee

On the 6 December 2021, a meeting of the Ethics Committee was held chaired by Dr Cochrane from Warwick University. Whilst the OPCC were not represented at the meeting, the minutes have been reviewed and there were principally three issues considered and discussed: -

- i. The previous disciplinary records of recipients of the Police Long Service and Good Conduct Medal. The outcome is that a policy and framework is to be developed to ensure that the validity and the credibility of the award is not devalued.
- ii. The publication by Warwickshire Police of photographs of individuals on the force's social media accounts and media releases, creating an ethical dilemma in respect of the nature of some of the public responses to these publications. The outcome is for greater engagement with the national debate that is taking place on this subject, with the intention to strengthen existing local policies and guidance.
- iii. The level of vetting for HMICFRS staff, who are appointed under legislation, to have unfettered access to police premises, personnel, information and assets. The outcome is that a letter is to be sent from the Chair of the Ethics Committee to Chief Constable Tedds outlining the issues and perceived risks.

The Ethics Committee sits every quarter and dates for 2022 are in the process of being ascertained.

4. IOPC

4.1 Local Update

On the 11 November 2021, a meeting took place between representatives of the Warwickshire OPCC and the IOPC Oversight Liaison Officer to discuss Warwickshire's Complaint Reviews. The meeting provided a useful forum to discuss specific cases and to consider the OPCC's processes for conducting Complaint Reviews.

4.2 Regional Update

On the 4 November 2021, having been instigated by the IOPC a regional OPCC Practitioner's Forum was held. The purpose of the forum is to focus on Complaint Reviews, with the opportunity to identify common themes and to share good practice within the West Midlands region.

4.3 National Update

On the 17 November 2021, the IOPC annual 'Police Complaints Statistics for England and Wales 2020/21' was published and as a consequence the requirements of the Specified Information Order 2021 became applicable.

The Elected Local Policing Bodies (Specified Information) (Amendment) Order 2021 requires the Police and Crime Commissioner to publish on their websites the Independent Office for Police Conduct (IOPC) annual statistics report, and also the most recent quarterly complaints data for their particular force. The data and reports are to be published within one month of publication by the IOPC.

At the same time of publishing by the Commissioner, a narrative must also be provided setting out how the Commissioner is 'holding to account' the Chief Constable for the complaint handling performance of the police force, together with an assessment of the Commissioner's own performance in carrying out certain statutory complaint handling functions.

The Commissioner's response to this report has subsequently been published on the OPCC website in accordance with the legislation and within the proscribed time frame. A copy of the response is appended for information at **Appendix A**.



Complaints Handling

Specified Information Order

1. Introduction

As the Police and Crime Commissioner for Warwickshire, I know that our police officers and staff work incredibly hard to serve our communities. Whilst they endeavour to deliver an outstanding service to all the county's residents and communities, I know that on occasions this unfortunately does not always happen and sometimes mistakes are made and public expectations are not met.

In such instances, I am determined to ensure that any errors are quickly rectified and lessons are swiftly learnt. This will serve to increase public confidence in the conduct of the force's officers and staff and also improve the service that Warwickshire Police provides to meet the needs of the county's diverse communities.

I hope that the following information and narrative will illuminate the important subject of police complaints, and in doing so provide reassurance as to the guidance processes, scrutiny and assurance that is applied to both the force's and my own performance in this critical area of police legitimacy and accountability.

Philip Seccombe

Police and Crime Commissioner for Warwickshire

2. Specified Information Order

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3. Complaints Data

The IOPC annual 'Police Complaints Statistics for England and Wales 2020/21' was published on the 17 November 2021 and consequently the requirements of the Specified Information Order are applicable. The IOPC report can be viewed at: - https://www.policeconduct.gov.uk/sites/default/files/Documents/statistics/Complaints_Stats_2021.pdf

4. Responsibilities

The Chief Constable investigates the majority of public complaints made against Warwickshire Police through the force's Professional Standards Department (PSD). The IOPC has a statutory responsibility for investigating a small number of more 'serious', and certain categories, of complaints. The Warwickshire Police and Crime Commissioner has a responsibility to 'hold to account' the Chief Constable for the strategic performance of Warwickshire Police and also for conducting the 'Complaint Reviews' of certain types of complaint made against the force.

5. Holding to Account

The principal mechanism for the Commissioner to 'hold to account' the Chief Constable for Warwickshire Police's performance is through the monthly Performance Accountability Meeting (PAM), which is also attended by senior officers from Warwickshire Police and members of staff from the Office of the Police and Crime Commissioner (OPCC).

At the PAM, the corporate Key Performance Indicators (KPIs) for PSD are provided for discussion by the force's Assurance and Service Improvement department, under the 'Effective and Efficient' strand of the force's 'Fit for the Future' strategy. These KPIs include metrics on the number of complaints recorded, any reoccurring themes identified from complaints, the timeliness of response to the complainant; together with the proportion of complaints that are subject to 'service recovery' outside of Schedule 3 of the Police Reform Act 2002 and those requiring investigation under Schedule 3 of the Police Reform Act 2002.

The IOPC annual statistics report was raised by the Commissioner with the Chief Constable at the PAM held on the 30 November 2021, where it was acknowledged the Warwickshire Police's performance was generally good, although there were particular areas of performance that required improvement. The minutes of this meeting are publically available on the OPCC website.

In addition to this strategic performance meeting, the OPCC Assurance and Scrutiny Officer holds regular meetings with the Head of PSD to discuss more tactical issues, to ensure that the OPCC and PSD teams work together to ensure that continuous improvement is made to the way in which complaints are handled.

To complement these meetings and provide additional scrutiny and assurance, a system of dip-sampling of complaints is undertaken by the OPCC in conjunction with an independent member of the Joint Audit and Standards Committee (JASC).

To provide further independent scrutiny and assurance, a 'Standards' report is submitted by the OPCC as an agenda item to meetings of the JASC. This report provides an overview of the force's complaints handling performance and also that of the OPCC Complaint Reviews; together with information on the action taken following the outcome of the Complaint Reviews in terms of recommendations made, or learning identified.

6. Complaint Handling

Some of the key performance metrics from the IOPC 'Police Complaints Statistics for England and Wales 2020/21' are: -

6.1 Complaints Made

A complaint is defined in IOPC statutory guidance as any expression of dissatisfaction with a police force that is expressed by or on behalf of a member of the public¹

In 2020/21, Warwickshire Police recorded a total of 680 complaints, representing 337 complaints per 1,000 employees. Amongst the 43 police forces of England and Wales, the range varied between 126 and 805 complaints per 1,000 employees.

6.2 Timeliness

The time taken to finalise a complaint varies according to whether it is dealt with outside of Schedule 3 of the Police Reform Act 2002 as a 'service recovery' matter, or is subject to an appropriate and proportionate investigation under Schedule 3 of the Act.

In 2020/21, the average time to log a complaint by Warwickshire Police was 2 days and as such was one of the best performing forces in England and Wales. The force also finalised 'service recovery' complaints in 21 days on average, whilst those investigated under Schedule 3 were finalised in 80 days on average. This level of performance is consistent with that achieved by most other police forces.

6.3 Regulation 13 Notices

Where Warwickshire Police has not completed an investigation within 12 months, the force must issue a written notice to the Commissioner and the IOPC under Regulation 13 of the Police (Complaints and Misconduct) Regulations 2020 and Regulation 19 of the Police (Conduct) Regulations 2020.

To date there have been four notices issued by Warwickshire Police to the Commissioner. In each case the circumstances have been reviewed to ensure that

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https://www.policeconduct.gov.uk/sites/default/files/Documents/statutoryguidance/2020_statutory_guidance_english.pdf

there are legitimate reasons for any perceived delay in the complaint investigation, the issues for the delay are often associated with matters of legal process.

7. Complainant Satisfaction

Complainant satisfaction is assessed based on the complaints outcomes. For less serious 'expressions of dissatisfaction', it is measured by PSD's service recovery rate that operates outside of Schedule 3 Police Reform Act 2002. Where the complaint cannot be resolved to the complainant's satisfaction then it is dealt with under Schedule 3 and consequently subject to a reasonable and proportionate investigation by PSD. The complainant is then afforded a right to request that the Commissioner reviews the complaint in cases where there is remaining dissatisfaction following the outcome provided by PSD.

Warwickshire Police's PSD deals with 76% of all complaints as service recovery outside of Schedule 3 of the Police reform Act 2002, thereby ensuring that such matters are addressed speedily, effectively and efficiently. This figure is one of the highest amongst the 43 police forces of England and Wales.

8. Complaint Reviews

In February 2020 the 'Police (Complaints and Misconduct) Regulations 2020' came into effect. These reforms are aimed at making the police complaints system more responsive, independent and customer focused. The intention is to remove the focus of attributing blame when things occasionally go wrong, to one of learning and service improvement. The legislation permits Commissioners to select from one of three models available to implement locally: -

- 1. Basic Statutory.** This model provides Commissioners with improved powers of oversight to 'hold to account' the Chief Constable for the handling of complaints. It also requires the Commissioner to deal with Complaint Reviews in cases that do not meet the threshold to be dealt with by the IOPC.
- 2. Triage.** This model requires the Commissioner to operate the Basic Statutory model and additionally take on the on the initial handling, assessment and resolution of complaints. More serious complaints are still required to be dealt with by the force.
- 3. Customer Contact.** This model requires the Commissioner to be operating both the Basic statutory and Triage models, and in addition the Commissioner can take on continued contact with the complainant throughout the complaints process to improve customer focus

8.1 Complaint Review Manager

After due consideration, the Warwickshire Police and Crime Commissioner decided to adopt the Basic Statutory model, in line with the majority of other Commissioners, whilst the other models matured and good practice was identified for future consideration. As a consequence, the Commissioner is now the Relevant Review Body for all Complaint Reviews that would previously have been managed by Warwickshire Police.

As the numbers of such reviews were historically relatively low in Warwickshire, the Commissioner made the decision to collaborate with the West Midlands Commissioner and utilise a joint member of staff as the designated Complaint Review Manager to also conduct the Warwickshire reviews.

The Complaint Review manager considers whether or not the complaint process was reasonable and proportionate, with recommendations made to the police force if the review is 'upheld'. Such recommendations might include, organisational learning, review of policy or procedure, or to reinvestigate the complaint.

Any recommendations arising from the review are provided to PSD, who then have 28 days to send a response to the Commissioner confirming, or otherwise, that the recommendations have been accepted. If they are agreed, then updates are sought every 28 days until completion. The only right of appeal to a complaint review is to seek judicial review.

Since the introduction of Complaint Reviews in February 2020, the Warwickshire OPCC have conducted a total of 61 reviews to date. Of these reviews, the complaint has been upheld in 23 cases and recommendations have been made.

8.2 Quality Assurance

A member of Warwickshire County Council's Internal Audit team has been tasked with auditing the Commissioner's complaints review process and practices, using a selection of completed review case as the evidence base. A number of draft recommendations arising out of the audit are currently being considered with a view to implementation.

8.3 Continuous Improvement

Regular meetings are held between representatives of the OPCC and the IOPC Oversight Liaison Officer to discuss review cases in Warwickshire. The meeting provides a useful 'sounding board' to discuss some of the cases and to consider processes for conducting reviews.

In addition, a Regional Practitioner's Forum has been instigated by the IOPC. The focus of the forum is on Complaint Reviews, with the opportunity to identify themes and share best practice in the West Midlands region.

The Association of Police and Crime Commissioner Chief Executives (APACE) has restarted the National Complaints Network. The network discusses Complaint Reviews; the Commissioner's holding to account responsibility, persistent complainants; and police misconduct and tribunals.

Through these meeting, forums and networks there is a real desire to work together, sharing ideas and helping each other to understand the legislation and how best to implement it.

8.4 Organisational Learning

A complaint review will consider whether the complaint process was reasonable and proportionate, with recommendations made to the Warwickshire Police if the review is upheld. Any recommendations made to the force are monitored by the

Commissioner, but under the legislation the force does not have to act on the recommendations made. Where recommendations arising can be identified as specific themes or similar issues arising the Police and Crime Commissioner will raise them through the holding to account process described in the above section on holding to account.