
QUARTERLY REPORT: COMPLAINTS, MISCONDUCT & OTHER MATTERS

Report of the Chief Constable

Contact: T/Superintendent Andy Waldie

1. Purpose of Report

1.2 This report outlines the data and background to Complaints, Misconduct and other matters that have been processed in the period 1 July to 30 September 2016 by the Professional Standards Department (PSD).

The report follows the agreed format required by the Police and Crime Commissioner and informs the Police and Crime Commissioner of the work being conducted; the paper also provides details of finalised cases.

2. Recommendation

2.1 That the Police and Crime Commissioner considers the report and raise any queries though the quarterly meeting with the Deputy Chief Constable.

Stephen Kavanagh
Chief Constable
Essex Police

3.0 COMPLAINTS AND CONDUCT REPORT – CONTENTS

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1. SIGNIFICANT/HIGH PROFILE CONDUCT AND COMPLAINT CASES

NEW CASES

xxx – Data Protection Act (DPA) theme

xxx – Vulnerability theme

PSD Investigation - CM/51/16

A Special Constable who applied to join another force was rejected on the grounds of a failed drug test which indicated a positive result (6 months check) for a substance similar to cannabis. A Fast Track Gross Misconduct Hearing was chaired by Chief Constable Kavanagh on 9th December 2016 and the officer was dismissed without notice.

PSD Investigation - CM/74/16

A new allegation of Misconduct in a Public Office relating to sexual conduct has been made against an officer who was already under restrictions and due to attend a Gross Misconduct Hearing (see CM/67/14 below). The new matter was referred to the IPCC who directed that it be subject of a local investigation. The officer has been suspended as a result of this new investigation; the Gross Misconduct Hearing has been adjourned pending the outcome of the criminal investigation.

PSD Investigation - CM/64/16

An allegation by a member of the public of sexual touching has been made against a member of police staff. The matter was referred to the IPCC who directed that a local investigation should take place. The member of staff is on police bail and has been suspended.

PSD Investigation – C/938/15

This complaint case alleged that officers had failed to investigate a domestic violence incident. The complaint was initially allocated to a local investigation officer; however, as the local investigation progressed concerns were identified in relation to the performance and the honesty of the officers. The matter was referred to the IPCC who directed that it be subject of a local investigation. This resulted in the case becoming a PSD investigation, which has upheld the complaint and found a case to answer. The officers will attend Gross Misconduct Hearing, date to be confirmed.

PSD Investigation - CM/57/16

PSD were informed that an officer and a police staff member were engaging in sexual activity on police premises. This was referred to the IPCC who directed that it be subject to a local investigation. A PSD investigation commenced and the officer admitted the conduct. A fast track gross misconduct hearing was chaired by Chief Constable Kavanagh on 09th December 2016 and the officer was dismissed without notice. A separate officer received a final written warning and the staff member received a written warning.

CURRENT STATUS OF PREVIOUSLY REPORTED CASES

IPCC Independent Investigation – C/297/16

Officers attend a report of a nuisance male at a sheltered housing site. A staff member subsequently made a complaint that one of the officers assaulted the male and verbally abused him using obscene language. The incident was referred to the IPCC on 12 May 2016 who decided to commence an independent criminal investigation which is on-going.

Update: The investigation has been concluded and the ensuing report returned to Essex Police as the Appropriate Authority for formal adjudication. One officer is to attend a Gross Misconduct Hearing, dates to be confirmed. The second officer was found not to have a case to answer.

CM/36/16 – PSD Investigation

An officer has been arrested and bailed in relation to allegations of domestic violence and coercion which allegedly occurred when the officer was off duty. The matter was referred to the IPCC who decided that it should be subject to a local investigation. The PSD case has been suspended pending the outcome of the criminal investigation by Op JUNO officers.

Update: The criminal investigation has been closed as no further action; the PSD investigation is on-going.

IPCC Independent Investigation – CM/13/16

It has been alleged that officers failed to investigate a domestic violence incident, nor did they put any safeguards in place. Three officers have been placed on restricted duties and the IPCC are investigating the case which was referred on the 19th of April 2016.

Update: The IPCC Investigation is on-going.

PSD Investigation CM/15/16

An officer is the subject of a criminal investigation in relation to fraudulent allowance claims. This has been referred to the IPCC on the 5th of April 2016 who have stated that it was suitable for a local investigation.

Update: The criminal threshold was not met and was being progressed at a gross misconduct level. Deputy Chief Constable Horne has accepted the resignation of this officer due to significant medical issues.

PSD Investigation CM/122/15

An officer is under investigation for allegedly submitting false mileage claims. The officer has been placed on restricted duties.

Update: A Gross Misconduct Hearing conducted by a Legally Qualified Chair took place on 12-14 October 2016; the outcome was no case to answer for honesty and integrity, however the officer received management advice as a sanction for a failure in duties.

PSD Investigation - CM/128/15

An alleged failure to risk assess a vulnerable missing person who is a minor was referred to the IPCC on the 7th January 2016 who have directed that a local investigation be undertaken.

Update: The investigation report has been completed and the Appropriate Authority has adjudicated that there is a case to answer for both officers at a threshold of misconduct. A misconduct meeting was held on 4 November 2016 which found no case to answer for one officer; the second officer retired prior to the meeting.

PSD Investigation - CM/125/15 -

An allegation of assault is being investigated by a specialist team from Crime & Public Protection. The case was referred to the IPCC on the 14th of December 2015 who directed a local investigation which is currently suspended pending the outcome of the criminal investigation.

Update: The criminal investigation was finalised as no further action. The PSD gross misconduct investigation also concluded that there was no case to answer.

PSD Investigation - C/806/15

A public complaint has been received that following police attendance at a domestic abuse incident, an officer made inappropriate contact with a vulnerable female. This has been referred to the IPCC on the 8th of October 2015 who have directed that a local investigation be undertaken. The officer has been suspended from duty.

Update: The investigation has been concluded; the officer is to attend a Gross Misconduct Hearing commencing on 17 February 2017

IPCC Independent Investigation CM/88/15

An incident occurred in a custody suite which resulted in a male losing the tips of three fingers.

The incident was referred to the IPCC on the 1st May 2015 who are conducting an independent investigation.

Update: The IPCC investigation team have advised that the investigators report is in its final stages

IPCC Independent/Managed Investigations – Operation Maple

Concerns were raised about the performance of an Investigation Team in the North of Essex which has prompted a review of current cases handled by that team. To date 56 cases have been referred to the IPCC from 19th November 2014 onwards of which 55 cases are part of a managed conduct investigation and 1 case is an independent investigation. The independent case was identified in 2015 prior to Op Maple commencing but due to the linked themes, it was adopted within the body of this investigation. Four of the referrals are public complaints which are also being managed by the IPCC.

Update: The IPCC have decided to conduct an Independent Investigation into the conduct of officers above the rank of Chief Inspector in the operation. Norfolk

Constabulary are continuing to progress investigations at gross misconduct or criminal level for all other officers in this case.

Twenty investigations have been concluded with recommendations of misconduct or no case to answer. The investigation reports for these cases have been returned to Essex Police as the Appropriate Authority for adjudication; this process is underway.

IPCC Supervised investigation - MI/202/14

A vulnerable female has alleged that in the 1990's she reported a crime and that the investigating officer established a relationship with her. This allegation is subject of a supervised investigation by PSD having been referred to the IPCC on the 14 October 2014.

Update: The investigation is on-going.

IPCC Independent Investigation – C/735/14

A complaint was made from a male youth who alleged that he was assaulted by police resulting in facial injuries whilst he was being searched for drugs. This matter was referred to the IPCC on the 2nd of September 2014.

Update: The IPCC investigation is on-going.

IPCC Supervised Investigation – CM/67/14 & CM/74/16

It is alleged that a male officer has had inappropriate contact with vulnerable females. This was referred on the 24th July 2014.

Update: Following the PSD investigation, the officer was due to attend a gross misconduct hearing 1-11 November 2016. A new criminal allegation of misconduct in a public office in relation to sexual conduct has been made. The officer has been suspended as a result of this new investigation; the Gross Misconduct Hearing has been adjourned pending the outcome of the criminal investigation.

2. SUSPENDED OFFICERS

At the time of submission of this report, 5 Officers and 1 Police Staff member are suspended from duty.

3. APPEALS MADE TO THE IPCC

(1). Where a complaint has been investigated by the Professional Standards Department, the complainant has a right of appeal to the IPCC if they are dissatisfied with the complaint investigation and/or its outcome.

(2). Where a complaint has been dealt with using the local resolution process, the complainant has a right of appeal to the IPCC should they be dissatisfied with the process or the actions taken to resolve the complaint. This only applies to complaints recorded before 22 November 2012; for complaints recorded after that date, the appeal authority is the Chief Officer.

(3). Matters submitted to the Professional Standards Department as complaints are reviewed and assessed to determine whether or not they should be formally recorded as a complaint. In cases where it would not be appropriate to record the matter as a complaint, the decision is explained and the person is advised of their right to appeal against the non-recording of the complaint to the IPCC.

TABLE OF APPEALS MADE TO THE IPCC

Date	(1) Against Investigation	Appeals Upheld	Appeals Not Upheld	Appeals Pending	(2) Against Local Resolution	Upheld	(3) Against Non Recording	Upheld
1.7.15 to 30.9.15	3	1	2	0	0	0	9	3
1.10.15 to 31.12.15	3	0	1	2	0	0	9	0
1.1.16 To 31.3.16	2	1	1	0	0	0	5	2
1.4.16 To 30.6.16	3	1	1	1	0	0	7	0
1.7.16 To 30.9.16	8	2	4	2	0	0	7	2

Note: There has been an increase in the number of appeals considered by the IPCC this quarter because 4 of these cases, when reviewed by the Force Appeals Officer, were found to relate to matters which should have been initially referred to the IPCC. Following referral the IPCC became the appropriate body to consider the appeal. To counter this issue PSD will now decide and record the relevant appeal body at the time the complaint is recorded.

The force's performance in relation to investigation appeals upheld by the IPCC has been examined by the Oversight Force Liaison officer at the IPCC, who states that there is no evidence of a disproportionate number of appeals being upheld.

The main reason for upholding appeals relates to an inadequate standard of investigation, for instance, insufficient enquiries carried out by the investigating officer and not certifying the investigation to special requirements. The IPCC has stated that there are no major concerns in terms of issues identified in relation to appeals.

There are currently no lead time issues for the IPCC to allocate appeals.

There are no non recording appeals which await adjudication from the IPCC.

APPEALS MADE TO THE CHIEF OFFICER

Following the implementation of the Police Reform and Social Responsibility Act, appeals for issues which are not serious in nature, or likely to result in disciplinary proceedings or those which have not been subject to a mandatory referral to the IPCC are now handled by the Professional Standards Department. The numbers registered in the last quarter are shown in the table below.

APPEALS TO CHIEF OFFICER						
Date	Against the process or outcome of a Local Investigation	Upheld	Against a Local Resolution	Upheld	Against Disapplication	Upheld
1.7.15 to 30.09.15	23	3	6	0	0	0
1.10.15 to 31.12.15	24	2	5	0	0	0
1.1.16 To 31.3.16	24	0	5	0	0	0
1.4.16 To 30.6.16	18	1	3	1	2	0
1.7.16 To 30.9.16	20	2	13	0	3	0

Currently there are 22 appeals awaiting adjudication; the appeals staff are working hard to address this backlog with additional resources in place.

Appeals are currently being processed in 45 days with plans to reduce this further still in the next quarter. This is a significant improvement on last year when it was taking 137 days to process appeals. The oldest appeal awaiting adjudication was received in August 2016, which is a significant improvement.

36 appeals have been received within this quarter.
(59 appeals have been received from April – September)

Note: There has been an increase in the number of Local Resolution appeals because a significant backlog of Local Resolution cases was cleared in the quarter. Additionally 2 appeals received by the IPCC were invalid.

TABLE OF COMPLAINTS RECEIVED BY HOME OFFICE CODE

	2015 1.7.15 To 31.10.15		2015 1.10.15 To 31.12.15		2016 1.1.16 To 31.3.16		2016 1.4.16 To 30.6.16		2016 1.7.16 To 30.9.16	
	A	1	0	0	0	1	0	1	0	0
B	0	0	0	0	0	0	0	0	0	0
C	29	1	27	4	22	3	31	3	22	2
D	27	4	17	0	11	1	23	2	23	1
E	30	0	19	2	18	1	29	3	27	3
F	12	0	7	1	11	1	8	1	12	0
G	9	3	4	0	6	0	5	1	7	0
H	2	0	1	0	1	0	2	1	2	2
J	12	1	5	0	3	0	5	0	7	1
K	1	0	2	0	1	0	0	0	0	0
L	11	1	5	0	2	1	3	1	4	0
M	22	2	19	0	23	4	36	7	28	3
N	0	0	0	0	2	0	0	0	0	0
P	0	0	0	0	0	0	0	0	0	0
Q	17	3	8	0	4	1	11	1	24	0
R	1	1	0	0	2	0	2	1	1	0
S	160	19	171	20	173	16	225	28	182	23
T	3	1	1	1	4	1	2	0	2	0
U	52	10	39	3	43	11	53	8	50	6
V	1	0	3	1	3	1	5	1	2	0
W	0	0	1	0	2	0	0	0	1	0
X	12	1	10	3	11	0	16	2	3	0
Y	0	0	1	0	0	0	0	0	0	0
**	0	0	0	0	0	0	0	0	2	0
Total	402	47*	340	35*	343	41	457	59	399	41*

*** Complaints against Police Staff included in the totals.**

**** Complaints post 22/11/12 recorded as organisational allegations, not conduct matters.**

A	Serious Assault	N	Breach of Code D – Identification
B	Sexual Assault	P	Breach of Code E – Tape Recording
C	Other Assault	Q	Lack of Fairness & Impartiality
D	Oppressive Conduct	R	Breaches not in a specific code
E	Unlawful/Unnecessary Arrest	S	Failures in Duty
F	Discriminatory Behaviour	T	Other Irregularity in Procedure
G	Irregularity in Evidence/Perjury	U	Incivility
H	Corrupt Practice	V	Traffic Irregularity
J	Mishandling of Property	W	Other
K	Breach of Code A - Stop & Search	X	Improper Disclosure of Information
L	Breach of Code B – Search & Seizure	Y	Other Sexual Conduct
M	Breach of Code C – Detention		

5. ALLEGATIONS OF OPPRESSIVE CONDUCT - COMPLAINT CODE D

There were 23 allegations recorded in this category during the quarter compared to 27 in the same period last year. Allegations are recorded under a number of criteria in relation to the circumstance; and most of these were in the 2 circumstances shown in the table below.

Circumstance
Failure to Investigate
Arrest/Detention

6. ALLEGATIONS OF FAILURES IN DUTY - COMPLAINT CODE S

There were 182 allegations recorded in this category during the quarter compared to 160 in the same period last year. The allegations are recorded under a number of criteria in relation to the circumstance; the 3 most common circumstances are shown in the table below.

Circumstance
Failure to investigate an incident
Arrest/Detention
Failure to Communicate

7. ALLEGATIONS OF DISCRIMINATORY BEHAVIOUR

There were 12 allegations recorded during the reporting period.

Allegation Type	Complainant – Self Classified	Status
Race	Asian Male	C/691/16 – Live
Gender	White Male	C/469/16 – Not Upheld
Race	Black Male	C/474/16 - Not Upheld
Race	Asian Male	C/415/16 - Live
Race – 2 Allegations	Asian Male	C/598/16 – Live
Race	White Male/Female	C/485/16 - Live
Age	White Male	C/534/16 – Live
Race	Black Male	C/627/16 – Live
Race	Black Male	C/357/16 - Not Upheld
Race	Black Female	C/507/16 - Live
Race	Spanish Male	C/568/16 – Live

8. PERFORMANCE DATA

8a. FINALISED COMPLAINT CASES

Outcome	Number	Percentage
Upheld	26	7.2
Not Upheld	63	17.5
Locally Resolved	227	63.2
Withdrawn	29	8.0
Discontinued	0	0
Disapplication	10	2.8
Derecorded	4	1.1
Total	359	

8b. UPHELD COMPLAINTS

Reference	Outcome/Sanction	Allegation Type	Officers /Staff	Gender	Ethnicity
C/72/15	Management Action	3 x S Neglect of Duty	2 x Pc 1 x Ps	1 x F 2 x M	W1
C/936/15	No Action- The matters related to Direction and Control where an acknowledgement was not sent by the Business Centre in regard to a letter. This process has now changed.	1 x S Neglect of Duty	N/A	N/A	N/A
C/733/15	Management Action	1 x S Neglect of Duty	1 x DCI 1 x Dc	1 x F 1 x M	W1
C/14/14	Management Action	1 x X Improper disclosure of information. 1 x S Neglect of Duty & 1 x U Incivility	1 x Ps 1 x C/Insp	2 x M	W1
C/705/14	Management Action	1 x S Neglect of Duty	1 x Pc	1 x F	W1
C/747/14	Management Action	1 x M Breach Code C PACE	1 x Ps 1 x Pc	2 x M	W1
C/824/14	Management Action	1 x S Neglect of Duty	1 x Pc	1 x M	W1
C/884/14	Management Action	1 x S Neglect of Duty	1 x Pc	1 x M	W1
C71/15	Management Action	2 x S Neglect of Duty	1 x /Ps 1 x T/Insp 1 x Pc	2 x F 1 x M	W1
C/477/15	Management Action	1 x M Breach Code C PACE	1 x Ps	1 x M	W1
C/491/15	Management Action	2 x S Neglect of Duty	1 x Pc	1 x F	W1
C/820/15	Management Action	1 x U Incivility	1 x Pc	1 x F	W1
C/827/15	Management Action	1 x L Breach Code B PACE	5 x Pc 2 x Ps	1 x F 6 x M	W1
C/10/16	Management Action	1 x C Other Assault	1 x Ds	1 x M	W1
C/843/15	Management Action	1 x S Neglect of Duty	2 x Pc	2 x M	W1
C/884/15	Management Action	1 x G irregularity in evidence	1 x Ps	1 x M	W1
C/916/15	Management Action	1 x U Incivility	1 x A/Ps	1 x M	W1
C/943/15	Management Action	1 x S Neglect of Duty	1 x Pc	1 x F	W1
C/23/16	No Action – it was not possible to identify the officer or staff member involved.	1 x U Incivility	N/A	N/A	N/A
C/29/16	Management Action	1 x S Neglect of Duty	2 x Dc 1 x Ds 1 x Ps 1 x Pc	3 x M 2 x F	W1
C/49/16	Management Action	1 x M Breach Code C PACE	1 x Insp 1 x Ps	2 x M	W1 W 9
C/76/16	Management Action	1 x X Improper disclosure of information	1 x Police Staff	1 x M	W1

C/124/16	Management Action	1 x V Traffic Irregularity	1 x Ps	1 x M	W1
C/170/16	Management Action	1 x S Neglect of Duty	1 x Ps	1 x M	W1
C/421/16	Management Action	1x S Neglect of Duty	1 x Insp 1 x pc	2 x M	W1

The purpose of management action is to:

- Deal with misconduct in a timely, proportionate and effective way that will command the confidence of staff, police officers, and the police service and the public.
- Identify any underlying causes or welfare considerations.
- Improve conduct and to prevent a similar situation arising in the future.

When appropriate, managers in the police service are expected and encouraged to intervene at the earliest opportunity to prevent misconduct occurring and to deal with cases of misconduct in a proportionate and timely way through management action. Even if the police officer does not agree to the management action it can still be imposed by the manager providing such action is reasonable and proportionate.

Management action may include:

- Pointing out how the behaviour fell short of the expectations set out in the Standards of Professional Behaviour
- Identifying expectations for future conduct.
- Establishing an improvement plan.
- Addressing any underlying causes of misconduct
(Home Office Guidance on Police Officer Conduct – section 2.91)

8c. COMPLAINT INVESTIGATIONS OVER 90 DAYS

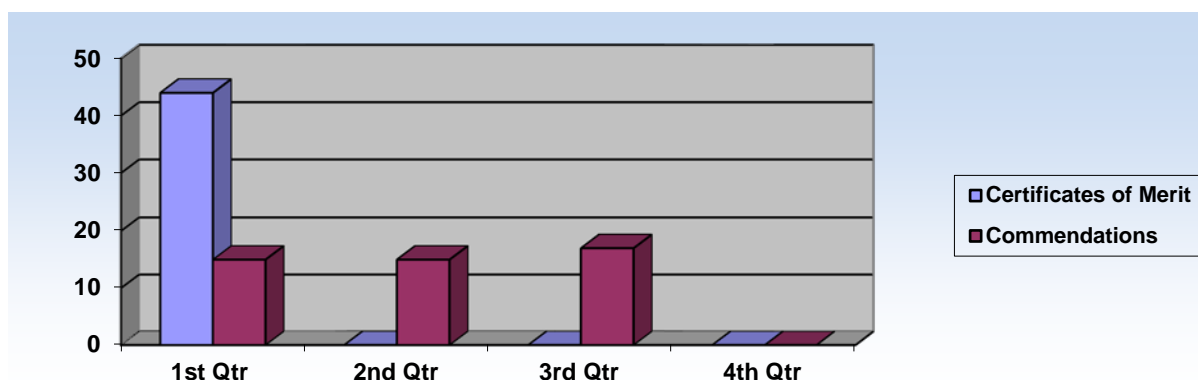
Reference: C/253/16. Days under investigation – 106

This case was recorded in May 2016, it relates to an allegation of assault during arrest, and incivility via the use of abusive language.

The delay in investigating this case has been caused by a delay in obtaining CCTV evidence and additional delays due to difficulties in obtaining two visiting orders to see the complainant, who is currently in prison.

8d. COMMENDATIONS AND CERTIFICATES OF MERIT

There were 17 Commendations issued in this quarter and no Certificates of Merit.



In addition to those commendations issued by the Chief Constable, there were 5 Court Commendations issued by HHJ Lodge in relation to Operation Mime. The officers were commended for their hard work in the case over a period of 2 trials.