
QUARTERLY REPORT: COMPLAINTS, MISCONDUCT & OTHER MATTERS

Report of the Chief Constable

Contact: Superintendent Cat Barrie

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 October – 31 December 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 through 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

PSD Investigation - CM/72/16

An officer was arrested by Op JUNO officers in relation to allegations of domestic abuse and coercive, controlling behaviour when off duty. The criminal investigation was concluded as no further action, however a PSD Gross Misconduct investigation has commenced and enquires are ongoing.

PSD Investigation - CM/80/16

A member of police staff was arrested for driving under the influence of drugs, subsequently charged and bailed to court for 7 February 2017. The matter was referred to the IPCC who directed a local investigation. The PSD case is suspended as sub judice pending the outcome of the court case which is scheduled for mid-March 2017.

PSD Investigation - CM/73/16

An investigation into inappropriate emails being sent by an officer has identified further concerns in relation to 4 separate allegations of inappropriate contact with vulnerable females. This has been referred to the IPCC who directed a local investigation. The officer has been suspended from duty.

IPCC Independent Investigation – MI/235/16

The deaths of two 17 year old males in a road collision were referred to the IPCC, as they occurred whilst police officers were in the vicinity. The IPCC are investigating this case.

IPCC Independent Investigation – CM/86/16

A criminal allegation of assault by a police officer is being independently investigated by the IPCC.

IPCC Independent Investigation – CM/6/17

Following the suicide of a female, a referral was made to the IPCC who have declared this an independent investigation. Two officers are being investigated for an alleged breach of the Standards of Professional Behaviour at a level of misconduct.

PSD Investigation – CM/75/16

A Special Constabulary Sergeant is being prosecuted for allegations of fraud through their day time employer. The PSD case has been suspended as sub judice pending the outcome of the court case. The officer has been suspended from duty. This matter was referred to the IPCC and was returned for a local investigation.

CURRENT STATUS OF PREVIOUSLY REPORTED CASES

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 from duty and the Gross Misconduct Hearing adjourned pending the outcome of the criminal investigation.

Update: The criminal investigation is ongoing.

IPCC Supervised Investigation – CM/67/14

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 and the Legally Qualified Chair has adjourned the hearing pending the outcome of the new 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.

Update: The subject has been re-bailed to 5 April 2017 and the criminal investigation is ongoing. A further allegation has been made regarding inappropriate behavior towards another vulnerable female. This matter has been re-referred to the IPCC and will remain as a local investigation.

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. This 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 a Gross Misconduct Hearing, scheduled for 18-21 April 2017.

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, exact date to be confirmed. The second officer was found not to have a case to answer.

PSD Investigation – CM/36/16

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 - 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 21 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 54 cases have been referred to the IPCC from 19th November 2014 onwards of which 53 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. Previous updates have stated that there were 56 cases but it has been clarified that it is 54 cases due to multiple complainants for two cases.

Update: The IPCC have commenced two Independent Investigations into the supervision and oversight of North Child Abuse Investigation Team (NCAIT) and Child Sexual Exploitation Triage Team (CSETT) units respectively.

Norfolk Police 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 by Essex Police to the IPCC for the final determination by the IPCC Commissioner.

Five cases have been referred to the Crown Prosecution Service (CPS) for advice on criminal matters.

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 has been completed and the Appropriate Authority has responded to the determination which relates to six Officers. The IPCC Commissioner will now make a final determination regarding the direction of this investigation.

2. SUSPENDED OFFICERS

At the time of submission of this report, 8 Officers, 2 Special Constabulary and 3 Police Staff members 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 |
| 1.10.16 to 31.12.16 | 8 | 3 | 0 | 5 | 0 | 0 | 12 | 4 |

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 was evidence of a disproportionate number of appeals being upheld in Quarter 2 and 3. This has resulted in a review of processes to ensure that lessons are learned accordingly.

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. During the January 2017 review meeting with the IPCC, they stated that there are no major concerns in terms of issues identified in relation to appeals, however it is noted that there was an increase in the previous quarter which was due to a number of cases requiring reinvestigation.

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

There are 2 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 |
| 1.10.15 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 |
| 1.10.16 to 31.12.16 | 16 | 0 | 14 | 2 | 1 | 0 |

Currently there are 9 appeals awaiting adjudication.

Appeals are currently being processed in 43 days. 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 December 2016, which is a significant improvement.

32 appeals have been received within this quarter.
(91 appeals have been received from April 2016 – December 2016)

Note: There has been an increase in the number of Local Resolution appeals because a significant backlog of Local Resolution cases were finalised in the previous quarter.

TABLE OF COMPLAINTS RECEIVED BY HOME OFFICE CODE

| | 2015 | | 2016 | | 2016 | | 2016 | | 2016 | |
|--------------|---------------------------|------------|-------------------------|-----------|-------------------------|-----------|-------------------------|------------|---------------------------|-----------|
| | 1.10.15 To 31.12.15 | | 1.1.16 To 31.3.16 | | 1.4.16 To 30.6.16 | | 1.7.16 To 30.9.16 | | 1.10.16 To 31.12.16 | |
| A | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| B | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| C | 27 | 4 | 22 | 3 | 31 | 3 | 22 | 2 | 26 | 3 |
| D | 17 | 0 | 11 | 1 | 23 | 2 | 23 | 1 | 30 | 2 |
| E | 19 | 2 | 18 | 1 | 29 | 3 | 27 | 3 | 24 | 0 |
| F | 7 | 1 | 11 | 1 | 8 | 1 | 12 | 0 | 5 | 0 |
| G | 4 | 0 | 6 | 0 | 5 | 1 | 7 | 0 | 21 | 2 |
| H | 1 | 0 | 1 | 0 | 2 | 1 | 2 | 2 | 2 | 0 |
| J | 5 | 0 | 3 | 0 | 5 | 0 | 7 | 1 | 20 | 2 |
| K | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 0 |
| L | 5 | 0 | 2 | 1 | 3 | 1 | 4 | 0 | 5 | 1 |
| M | 19 | 0 | 23 | 4 | 36 | 7 | 28 | 3 | 27 | 1 |
| N | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| P | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Q | 8 | 0 | 4 | 1 | 11 | 1 | 24 | 0 | 27 | 2 |
| R | 0 | 0 | 2 | 0 | 2 | 1 | 1 | 0 | 0 | 0 |
| S | 171 | 20 | 173 | 16 | 225 | 28 | 182 | 23 | 116 | 11 |
| T | 1 | 1 | 4 | 1 | 2 | 0 | 2 | 0 | 8 | 0 |
| U | 39 | 3 | 43 | 11 | 53 | 8 | 50 | 6 | 56 | 4 |
| V | 3 | 1 | 3 | 1 | 5 | 1 | 2 | 0 | 5 | 1 |
| W | 1 | 0 | 2 | 0 | 0 | 0 | 1 | 0 | 2 | 0 |
| X | 10 | 3 | 11 | 0 | 16 | 2 | 3 | 0 | 13 | 2 |
| Y | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| ** | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 2 | 0 |
| Total | 340 | 35* | 343 | 41 | 457 | 59 | 399 | 41* | 390 | 31 |

*** 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 30 allegations recorded in this category during the quarter compared to 17 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 |
| Failure to Communicate |

6. ALLEGATIONS OF FAILURES IN DUTY - COMPLAINT CODE S

There were 116 allegations recorded in this category during the quarter compared to 171 in the same period last year. The allegations are recorded under a number of criteria in relation to the circumstance; the most common circumstances are shown in the table below.

| Circumstance |
|------------------------------------|
| Failure to investigate an incident |
| Arrest/Detention |

7. ALLEGATIONS OF DISCRIMINATORY BEHAVIOUR

There were 5 allegations recorded during the reporting period.

| Allegation Type | Complainant – Self Classified | Status |
|-----------------|-------------------------------|--------|
| Homophobic | White Female | Live |
| Gender | White Female | Live |
| Race | Asian Male | Live |
| Race | White Female | Live |
| Race | White Male | Live |

8. PERFORMANCE DATA

8a. FINALISED COMPLAINT CASES

| Outcome | Number | Percentage |
|------------------|------------|------------|
| Upheld | 22 | 7.8 |
| Not Upheld | 72 | 25.6 |
| Locally Resolved | 149 | 53.0 |
| Withdrawn | 29 | 10.3 |
| Discontinued | 0 | 0 |
| Disapplication | 9 | 3.2 |
| Derecorded | 0 | 0 |
| Total | 281 | |

8b. UPHELD COMPLAINTS

| Reference | Outcome/Sanction | Allegation Type | Officers /Staff | Gender | Ethnicity |
|-----------|-------------------|---|-----------------|----------------|-----------|
| C/435/15 | Management Action | 1 x Unnecessary Arrest 1 x Other Assault | 1 x Pc | M | W1 |
| C/871/14 | Management Action | 1 x Unnecessary Arrest | 3 x Pc | 1 x F 2 x M | W1 |
| C/1041/14 | Management Action | 2 x U Incivility | 1 x T/Ps & | 1 x F 2 x M | W1 & W9 |

| | | | | | |
|-----------|--|--|------------------------|----------------|-----|
| | | | 2 x Ps | | |
| C/200/15 | No Action. The investigation was unable to determine the staff or officers involved. The complaint relates to failing to return telephone calls and failing to post a property schedule. | 1 x L Breach Code B PACE, 1 x S Neglect of Duty | N/A | N/A | N/A |
| C/308/15 | Management Action | 1 x M Breach Code C PACE | 1 x Ps | 1 x F | W1 |
| C/920/15 | No Action. The investigation was unable to determine the police staff involved. The complaint relates to a lost passport in police possession. | 1 x J Mishandling of Property | N/A | N/A | N/A |
| C/1075/14 | Management Action | 1 x J Mishandling of Property, 1 x L Breach Code B PACE, 1 x S Neglect of Duty | 2 x Pc 1 x Ps | 2 x F 1 x M | W1 |
| C1005/15 | Management Action | 1 x S Neglect of Duty 1 x M Breach Code C PACE | 1 x Pc | 1 x M | W1 |
| C/67/16 | Management Action | 1 x Unnecessary Arrest | 1 x Ds 1 x Dc | 2 x M | W1 |
| C/206/16 | Management Action | 1 x S Neglect of Duty | 1 x Pc | 1 x M | W1 |
| C/244/16 | Management Action | 1 x S Neglect of Duty | 1 x Pc | 1 x M | W1 |
| C/309/16 | Management Action | 1 x M Breach Code C PACE, 1 x U Incivility | 3 x Ps 1 x Pc | 3 x M 1 x F | W1 |
| C/312/16 | No Action. The investigation was unable to determine the officers involved. The complaint relates to lost property. | 1 x S Neglect of Duty | N/A | N/A | N/A |
| C/345/16 | Management Action | 1 x X Improper disclosure of information | 1 x Pc | 1 x M | W1 |
| C/408/16 | No Action. The error identified (around informing an individual of a bail extension) was a system failure rather than that of an individual. | 1 x S Neglect of Duty | N/A | N/A | N/A |
| C/415/16 | Management Action | 3 x S Neglect of Duty, 1 x L Breach Code B PACE | 3 x Pc | 2 x M 1 x F | W1 |
| C/476/16 | Management Action | 1 x S Neglect of Duty | 1 x Ps | 1 x M | W1 |
| C/595/16 | Management Action | 1 x S Neglect of Duty | 1 x Pc | 1 x M | W1 |
| C/620/16 | Management Action | 1 x D Oppressive Conduct | 1 x Pc | 1 x F | W1 |
| C/627/16 | Management Action | 1 x S Neglect of Duty | 1 x Ps | 1 x M | W1 |
| C/677/16 | Management Action | 1 x S Neglect of Duty | 1 x Police Staff | 1 x M | W1 |
| C/99/16 | Management Action | 1 x D Oppressive Conduct | 1 x Pc | 1 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/280/16. Days under investigation – 153

This case was originally recorded in April 2016, although the full details of complaint were not known until the end on May 2016. This case has many strands of complaint recorded under 5 Home Office Codes of Complaint headings.

The delay in investigating this case has been caused by the size of the case where there are around 60 strands of complaint made against approximately 30 police officers and members of police staff.

8d. COMMENDATIONS AND CERTIFICATES OF MERIT

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

