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## **QUARTERLY REPORT: COMPLAINTS, MISCONDUCT & OTHER MATTERS**

Report of the Chief Constable

Contact: Superintendent Cat Barrie

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### **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 to 31 December 2015 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**

#### **PSD Investigation CCM/122/15**

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

#### **IPCC Independent Investigation - CM/128/15**

An alleged failure to risk assess a vulnerable missing person who is a minor has been referred to the IPCC on 07<sup>th</sup> January 2016 who have commenced an independent investigation.

#### **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 14<sup>th</sup> December 2015 who directed a local investigation which is currently suspended pending the outcome of the criminal investigation.

#### **PSD Investigation - CM/124/15**

An officer allegedly failed to identify the risks posed by a sexual offences suspect. The matter was referred to the IPCC on 10<sup>th</sup> December 2015 who directed a local investigation take place.

#### **IPCC Independent Investigation - MI/223/15**

A vulnerable missing person who is a minor was found by police approximately 3 hours after being reported missing and had been sexually assaulted. Concerns were raised about the initial risk grading and the matter was referred to the IPCC 05<sup>th</sup> January 2016 who have decided to conduct an independent investigation.

#### **PSD Investigation - CM/79/15**

### **RETROSPECTIVE ENTRY**

An officer and a member of police staff have both received a criminal caution for Data Protection Act offences. The officer is to attend a Gross Misconduct Hearing in April 2016. The police staff member had resigned prior to the commencement of the PSD investigation.

### **CASES PREVIOUSLY REPORTED**

#### **IPCC Independent Investigation MI/161/15**

A number of calls were received from the public stating that a man was armed in the street. Police attended the incident and a man was shot by officers and sustained injuries to his leg. The incident was referred to the IPCC on 01<sup>st</sup> September 2015 who have commenced an independent investigation.

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 08<sup>th</sup> October 2015 who have directed that a local investigation be undertaken. The officer has been suspended from duty.

Update: The IPCC investigation is on-going.

### **IPCC Independent Investigation MI/49/15**

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 01<sup>st</sup> May 2015 who are conducting an independent investigation.

Update: The IPCC investigation is on-going and an officer remains suspended from duty. A further referral was made in relation to allegations of inappropriate behaviour and comments by an officer and a police staff member post the incident. This has been included in the independent investigation for the officer, whilst the member of police staff has resigned.

### **IPCC Independent Investigation C/664/10**

In 2010 the IPCC began an independent investigation into a complaint involving the use of force. In November 2012 the investigation concluded that there was no case to answer.

The complainants subsequently took the Independent Police Complaints Commission (IPCC) to a Judicial Review which directed that the case be reinvestigated.

The outcome of the second investigation is that there is a case to answer and the officer will attend a private Gross Misconduct Hearing in January 2016 which is in keeping with the Police (Conduct) Regulations 2008.

Update: The Gross Misconduct Hearing took place and concluded that the case was not proven and no further action would be taken.

### **IPCC Independent Investigation MI/4/15**

A male was arrested following a domestic abuse incident and then bailed to another force for different offences. When released from custody by the second force, he returned to the original arrest location and assaulted two people. The incident was referred to the IPCC on 20<sup>th</sup> January 2015 who are conducting an independent investigation.

Update: The IPCC investigation is on-going.

### **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 19<sup>th</sup> November 2014 onwards of which 55 cases are part of a managed conduct investigation and 1 case is an independent investigation which has previously been recorded under the name of Operation Marigold. Four of the referrals are public complaints which are also being managed by the IPCC.

Update: Three officers have been served with regulation notices and suspended from duty and 21 other officers have been served with regulation notices.

Update: One of the suspended officers attended a public Gross Misconduct Hearing on 14<sup>th</sup> September 2015 for an unrelated matter. This resulted in the officer being dismissed and the officer's details have been added to the College of Policing national disapproved register.

Update: An additional related public complaint case has been recorded and referred to the IPCC and will be included in the Norfolk investigation (included in the figures in the above main paragraph).

#### **IPCC Independent Investigation – MI/218/14**

A referral was made to the IPCC on 30<sup>th</sup> October 2014 regarding the police response to reports of a male walking on the A12. The man died as a result of a multiple vehicle incident.

Update: The IPCC Investigation has concluded and has been forwarded to the CPS.

Update: The CPS decided to take no further action on the criminal level; however the 2 officers involved are to attend a Gross Misconduct Hearing.

#### **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 which was referred to the IPCC on 14<sup>th</sup> October 2014.

Update: The investigation is on-going.

#### **PSD Investigation – CM/63/14**

A Special Constable was arrested by the Metropolitan Police Service following allegations of an inappropriate relationship with a minor in the course of that Officer's civilian occupation. This officer has been bailed until February 2015 and is suspended from duty.

Update: The officer has been charged with abusing his position and will appear at Crown Court in April 2016.

#### **IPCC Independent Investigation – MI/164/14**

Members of the public reported that a male was creating a disturbance in the street. The male was restrained by members of the public and subsequently by police and ambulance staff. The male suffered a cardiac arrest whilst being conveyed to the hospital by ambulance. The male died 24 hours later. This matter was referred to the IPCC on 29<sup>th</sup> August 2014.

Update: The IPCC investigation has been completed and publication of the investigation report is awaited.

### **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 02<sup>nd</sup> September 2014.

Update: The IPCC investigation is on-going.

### **IPCC Independent Investigation – C/621/14**

A complaint was made to police about the harassment of a vulnerable female by an ex-partner whereby a restraining order was in place, however, no arrest was made. The female subsequently made an allegation of serious sexual assault against the ex-partner. This matter was referred to the IPCC on 23<sup>rd</sup> July 2014.

Update: The IPCC investigation is on-going.

### **IPCC Independent Investigation – MI/171/14**

A referral was made to the IPCC on the 10<sup>th</sup> and 24<sup>th</sup> September 2014 as a result of a criminal allegation not being acted upon promptly.

Update: The IPCC investigation has concluded and publication of the report is awaited.

### **IPCC Supervised Investigation – CM/67/14**

It is alleged that a male officer has had inappropriate contact with vulnerable females. This matter was referred to the IPCC on 24<sup>th</sup> July 2014.

Update: The officer has been suspended and a PSD investigation is in progress. The IPCC has returned this matter back to force to be conducted as a supervised investigation.

Update: The investigation is on-going and the officer has had the suspension lifted and is back at work on a restricted basis.

Update: The investigation report has been submitted and is being considered by the IPCC

## **2. SUSPENDED OFFICERS**

At the time of submission of this report, 6 Officers, 1 Police Community Support Officer and 1 Special Constable 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.

Date	(1) Against Investigation	Appeals Upheld	Appeals Not Upheld	Appeals Pending	(2) Against Local Resolution	Upheld	(3) Against Non Recording	Upheld
1.10.14 to 31.12.14	4	0	0	4	0	0	11	5
1.1.15 to 31.3.15	3	0	3	0	0	0	5	3
1.4.15 to 30.6.15	5	1	1	3	0	0	9	5
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

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

There are 3 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.

<b>APPEALS TO CHIEF OFFICER</b>						
Date	Against the process or outcome of a Local Investigation	Upheld	Against a Local Resolution	Upheld	Against Disapplication	Upheld
1.10.14 to 31.12.14	24	0	4	0	2	0
1.1.15 to 31.3.15	26	0	10	1	2	0

1.4.15 to 30.6.15	11	0	5	0	0	0
1.7.15 to 30.09.15	23	0	6	0	0	0
1.10.15 to 31.12.15	24	0	5	0	0	0

**TABLE OF COMPLAINTS RECEIVED BY HOME OFFICE CODE**

	2014		2015		2015		2015		2015	
	1.10.14 To 31.12.14		1.1.15 To 31.3.15		1.4.15 To 30.6.15		1.7.15 To 31.10.15		1.10.15 To 31.12.15	
<b>A</b>	0	0	0	0	0	0	1	0	0	0
<b>B</b>	0	0	1	0	1	0	0	0	0	0
<b>C</b>	27	0	25	1	25	0	29	1	27	4
<b>D</b>	24	3	31	5	25	3	27	4	17	0
<b>E</b>	33	0	26	0	24	2	30	0	19	2
<b>F</b>	7	0	7	2	13	2	12	0	7	1
<b>G</b>	7	0	4	0	7	0	9	3	4	0
<b>H</b>	1	0	1	0	0	0	2	0	1	0
<b>J</b>	24	3	12	2	2	2	12	1	5	0
<b>K</b>	2	0	3	0	1	0	1	0	2	0
<b>L</b>	11	0	10	1	10	4	11	1	5	0
<b>M</b>	28	0	20	1	21	1	22	2	19	0
<b>N</b>	0	0	0	0	0	0	0	0	0	0
<b>P</b>	0	0	0	0	0	0	0	0	0	0
<b>Q</b>	12	0	18	1	14	3	17	3	8	0
<b>R</b>	2	0	1	0	0	0	1	1	0	0
<b>S</b>	202	13	185	16	187	27	160	19	171	20
<b>T</b>	7	1	6	0	0	0	3	1	1	1
<b>U</b>	44	5	48	5	46	8	52	10	39	3
<b>V</b>	4	0	4	0	0	0	1	0	3	1
<b>W</b>	8	1	4	1	1	0	0	0	1	0
<b>X</b>	9	1	8	0	9	2	12	1	10	3
<b>Y</b>	1	1	0	0	0	0	0	0	1	0
<b>**</b>	5	0	1	0	1	0	0	0	0	0
<b>Total</b>	458	28*	415	35*	387	54*	402	47*	340	35*

\* Complaints against Police Staff included in the totals.

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



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

## 5. ALLEGATIONS OF OPPRESSIVE CONDUCT - COMPLAINT CODE D

There were 17 allegations recorded in this category during the quarter compared to 24 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.

<b>Circumstance</b>
Failure to Communicate
Arrest/Detention

## 6. ALLEGATIONS OF FAILURES IN DUTY - COMPLAINT CODE S

There were 171 allegations recorded in this category during the quarter compared to 202 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.

<b>Circumstance</b>
Failure to investigate an incident
Arrest/Detention
Failure to Communicate

## 7. ALLEGATIONS OF DISCRIMINATORY BEHAVIOUR

There were 7 allegations recorded during the reporting period.

<b>Allegation Type</b>	<b>Complainant – Self Classified</b>	<b>Status</b>
Race	Black Female	C/843/15 – Live
Gender	White Male	C/1005/15 – Live
Mental Health	White Female	C/1018/15 - Live
Mental Health	White Female	C/715/15 - Live
Race	Black Male	C/873/15 – Live
Disability	White Male	C/816/15 - Live
Race	Black Male	C/817/15 – Live

## 8. PERFORMANCE DATA

**8a. FINALISED COMPLAINT CASES**

Outcome	Number	Percentage
Upheld	21	13.8
Not Upheld	43	28.3
Locally Resolved	44	28.9
Withdrawn	33	21.7
Discontinued	0	0
Disapplication	11	7.2
<b>Total</b>	<b>152</b>	

**8b. UPHELD COMPLAINTS**

Reference	Outcome or Sanction	Allegation Type	Officers /Staff	Officer Gender	Officer Ethnicity
C/166/14	Management Action	1 x S Neglect of Duty 1 x U Incivility	1 x Ds	1 x M	W1
C/494/14	No Action (unable to identify the officer)	1 x S Neglect of Duty	U/K	U/K	U/K
C/522/14	Management Action	1 x U Incivility	1 x Police Staff	1 x M	W1
C/569/14	Management Action	1 x S Neglect of Duty	1 x Pc	1 x F	M1
C/985/14	No Action (The terminology used was considered appropriate under the circumstances)	1 x U Incivility	1 x Pc	1 x M	W1
C/1036/14	Management Action	1 x S Neglect of Duty	1 x Pc	1 x M	W1
C/8/15	Management Action	1 x E Unnecessary arrest/detention	1 x Pc	1 x M	M1
C/10/15	No Action (The officer has since retired from the force)	1 x J Mishandling of property	1 x Pc	1 x M	W1
C/82/15	Management Action	1 x Q Lack of fairness/impartiality	1 x Pc	1 x M	W1
C/94/15	Management Action	1 x S Neglect of Duty	1 x Pc	1 x M	W1
C/118/15	Management Action	1 x U Incivility	1 x Pc	1 x M	W1
C/190/15	Management Action	1 x L Breach Code B PACE	2 x Pc's	1 x M & 1 x F	W1
C/224/15	Management Action	1 x X Improper disclosure of information	1 x Ps	1 x M	W1
C/253/15	Management Action	1 x S Neglect of Duty	1 x Pc	1 x M	W1
C/385/15	Management Action	1 x S Neglect of Duty	1 x Pc	1 x F	W1
C/468/15	Management Action	1 x S Neglect of Duty	1 x PC 1 x Police Staff	2 x M	W1
C/572/15	No Action (The error was linked to communication from another force)	1 x E Unnecessary arrest/detention	1 x Pc	1 x M	W1
C/600/15	No Action (This was a process issue rather than a staff member's conduct)	1 x E Unnecessary arrest/detention	1 x Pc	1 x M	W1
C/594/14	Management Action	2 x S Neglect of Duty	1 x Ps	1 x M	W1

C/338/15	Formal Action – Final Written Warning following a Misconduct Meeting.	1 x D Oppressive Conduct	1 x Special Chief Inspector	1 x M	M1
C/552/15	No Action (This was a process issue rather than a staff member's conduct)	1 x S Neglect of Duty	U/K	U/K	U/K

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, 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**

#### **COMPLAINT INVESTIGATIONS OVER 90 DAYS**

Reference: C/579/1. Days Under Investigation – 186

This case was recorded in July 2015, it relates to an alleged assault by officers on a mother and her son. It is also alleged that officers entered the complainant's property without the proper legal authority. The delay in investigating this case has been caused by a delay in obtaining evidence from the complainant's solicitors, specifically medical evidence and statements. This evidence has recently been received. The officers involved are due to be interviewed in the near future.

(This report does not contain details of complaints processed outside of the specified period which remain under investigation. It also does not include complaints being investigated by Local Policing Areas or other commands within Essex Police.)

**8d. COMMENDATIONS AND CERTIFICATES OF MERIT**

There were 8 Certificates of Merit and 32 Commendations issued in this quarter.

