
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 January to 31 March 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

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.

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 suitable for local investigation and the investigation is on-going.

PSD Investigation C/84/15

An allegation of theft was made by a member of the public against an officer. Following referral to the IPCC a criminal investigation commenced. The officer subsequently admitted the offence and was given a caution. The officer's request to resign was authorised by DCC Horne in conjunction with Home Office Guidance. The officer's details have been submitted to the national College of Policing disapproved register.

CASES PREVIOUSLY REPORTED

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: The investigation has concluded and the officer is to attend a Gross Misconduct Hearing.

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 is on-going.

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 investigation is currently suspended as there are sub judice matters.

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 the 10th of December 2015 who directed a local investigation take place.

Update: Following the investigation the officer attended a Misconduct Meeting where the officer received Management Advice as a Sanction.

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 on the 5th of January 2016 who have decided to conduct an independent investigation.

Update: The IPCC investigation found that there were no conduct issues however performance recommendations have been put in place.

PSD Investigation - CM/79/15

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 presided by a legally qualified chair in April 2016. The police staff member had resigned prior to the commencement of the PSD investigation.

Update: The Gross Misconduct Hearing found that there was a case to answer and the Officer was given a Final Written Warning.

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 the 1st 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 the 8th of October 2015 who have directed that a local investigation be undertaken. The officer has been suspended from duty.

Update: The investigation is on-going.

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 is on-going.

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 the 20th January 2015 who are conducting an independent investigation.

Update: The investigation has been concluded; two officers are to attend a Misconduct Meeting.

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. 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 14th 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).

Update: Norfolk have completed and submitted 17 investigation reports; the remainder are on-going.

IPCC Independent Investigation MI/218/14

A referral was made to the IPCC on the 30th 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 attended a Gross Misconduct Hearing on the 12th of May 2016 and were dismissed without notice.

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.

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 was convicted at court and subsequently resigned on the 21st of April 2016 which was Permitted under the Police Conduct Regulations.

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 was referred to the IPCC on the 29th August 2014.

Update: The IPCC investigation report found that there were no conduct issues.

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 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 the 23rd July 2014.

Update: The investigation has been concluded; two officers are to attend a Misconduct Meeting

IPCC Independent Investigation – MI/171/14

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

Update: The IPCC investigation report found that there were no conduct issues.

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: 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.

Update: The IPCC requested that further work be undertaken. That work has been completed and a revised report submitted for consideration.

2. SUSPENDED OFFICERS

At the time of submission of this report, 5 Officers 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
1.1.15 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
1.1.16 To 31.3.16	2	1	1	0	0	0	5	2

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, Nischal Thakker-Cunningham, who states that there was not a disproportionate number of appeals being upheld. The number (4) between April

2015 and February 2016 represents a significant improvement compared to the figures for 2014/2015.

The main reason for upholding appeals relates to the inadequate standard of investigation, for instance, insufficient enquiries carried out by the investigating officer and not certifying the investigation to special requirements. The IPCC 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
1.1.15 to 31.3.15	26	3	10	1	2	0
1.4.15 to 30.6.15	11	3	5	0	0	0
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

Following a meeting on the 25th January 2016 between the Chief Constable Stephen Kavanagh, Deputy Chief Constable Matthew Horne and the IPCC, a query was raised with the IPCC regarding appeals that are upheld by Essex Police. The Oversight Force Liaison officer, Nischal Thakkar-Cunningham of the IPCC, outlined that no recent work had been carried out by the IPCC to dip-sample cases but that regular discussions were held with the Head of Professional Standards, where these issues were covered. From the forces perspective there are no emerging themes but it is an area that will continue to be monitored.

Currently there are a number of appeals awaiting adjudication and we are working hard to address this backlog. Of the 24 appeals against the outcome of a local investigation received in the quarter, 3 appeals were not upheld. These were fast-tracked.

TABLE OF COMPLAINTS RECEIVED BY HOME OFFICE CODE

	2015 1.1.15 To 31.3.15		2015 1.4.15 To 30.6.15		2015 1.7.15 To 31.10.15		2015 1.10.15 To 31.12.15		2016 1.1.16 To 31.3.16	
A	0	0	0	0	1	0	0	0	1	0
B	1	0	1	0	0	0	0	0	0	0
C	25	1	25	0	29	1	27	4	22	3
D	31	5	25	3	27	4	17	0	11	1
E	26	0	24	2	30	0	19	2	18	1
F	7	2	13	2	12	0	7	1	11	1
G	4	0	7	0	9	3	4	0	6	0
H	1	0	0	0	2	0	1	0	1	0
J	12	2	2	2	12	1	5	0	3	0
K	3	0	1	0	1	0	2	0	1	0
L	10	1	10	4	11	1	5	0	2	1
M	20	1	21	1	22	2	19	0	23	4
N	0	0	0	0	0	0	0	0	2	0
P	0	0	0	0	0	0	0	0	0	0
Q	18	1	14	3	17	3	8	0	4	1
R	1	0	0	0	1	1	0	0	2	0
S	185	16	187	27	160	19	171	20	173	16
T	6	0	0	0	3	1	1	1	4	1
U	48	5	46	8	52	10	39	3	43	11
V	4	0	0	0	1	0	3	1	3	1
W	4	1	1	0	0	0	1	0	2	0
X	8	0	9	2	12	1	10	3	11	0
Y	0	0	0	0	0	0	1	0	0	0
**	1	0	1	0	0	0	0	0	0	0
Total	415	35*	387	54*	402	47*	340	35*	343	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 11 allegations recorded in this category during the quarter compared to 31 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 Communicate
Arrest/Detention

6. ALLEGATIONS OF FAILURES IN DUTY - COMPLAINT CODE S

There were 173 allegations recorded in this category during the quarter compared to 185 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 11 allegations recorded during the reporting period.

Allegation Type	Complainant – Self Classified	Status
Race	Black Female	C/174/16 – Live
Race	Black Male	C/875/15 – Live
Race	White Female	C/192/16 - Live
Mental Health	White Female	C/79/16 - Live
Race	Black Male	C/88/16 – Live
Disability	White Male	C/134/16 - Live
Race x 2	Black Male	C/20/16 – Sub Judice
Race	Black Female	C/173/16 - Live
Race	Black Male	C/128/16 - Withdrawn
Race	Black ale	C/23/16 - Live

8. PERFORMANCE DATA

8a. FINALISED COMPLAINT CASES

Outcome	Number	Percentage
Upheld	32	8.2
Not Upheld	64	16.4
Locally Resolved	255	65.5
Withdrawn	31	7.9
Discontinued	0	0
Disapplication	4	1.0
Derecorded	3	0.8
Total	389	

8b. UPHELD COMPLAINTS

Reference	Outcome or Sanction	Allegation Type	Officers /Staff	Officer Gender	Officer Ethnicity
C/684/14	Management Action	1 x S Neglect of Duty	1 x T/Insp	M	W1
C/566/15	Management Action	1 x Breach Code B PACE	1 x Dc & 1 x Pc	1 x M & 1 x F	W1
C/774/15	Management Action	1 x S Neglect of Duty	1 x Pc	M	W1
C/881/15	Management Action	1 x S Neglect of Duty	1 x Ps	M	W1
C/79/15	Management Action	1 x S Neglect of Duty	1 x Pc	M	W1
C/650/14	Management Action	1 x U Incivility	1 x Pc	M	W1
C/513/15	No Action. (The complaint was assessed as a process failure rather than a failure by an individual officer).	1 x S Neglect of Duty	1 x Pc	M	W1
C/1040/15	No Action. (The complaint relates to information not being provided. The investigation upheld the complaint but failed to identify the individual officer or police staff member involved).	1 x S Neglect of Duty	U/K	U/K	U/K
C/166/15	Management Action	1 x S Neglect of Duty	1 x Pc	F	W1
C/405/15	Management Action	1 x S Neglect of Duty	1 x Ps	M	W1
C/1055/14	Management Action	1 x S Neglect of Duty	1 x Pc	M	W9
C/179/15	Management Action	1 x M Breach Code C PACE	2 x Ps	1 x M & 1 x F	W1
C/335/15	Management Action	1 x 1 x L Breach Code B PACE & 1 x S Neglect of Duty	1 x T/Ps & 1 x Pc	1 x M & 1 x F	W1
C/511/15	Management Action	1 x S Neglect of Duty & 1 x U Incivility	1 x Pc	M	W1
C/478/15	Management Action	1 x S Neglect of Duty	1 x Pc	M	W1
C/61/15	Management Action	1 x S Neglect of Duty	2 x Pc	2 x M	W1
C/710/14	Management Action	1 x U Incivility	1 x Pc	M	W2

C/501/14	Management Action	1 x S Neglect of Duty	2 x Ds, 1 x Pc, 1 x Police Staff, 2 x Dc	3 x M & 3 x F	W1
C/249/15	No Action. (The complaint relates to hair from a police dog being left on a car seat/s following a lawful search of the complainant's vehicle. The investigation concluded that whilst dog hair had been left this was not a matter relating to individual officer misconduct.	1 x S Neglect of Duty	1 x Pc	M	W1
C/442/14	Management Action and No Action. (The No Action finding relates to a telephone call taken by a Police Staff member. The Investigating Officer states <i>'the call is recorded accurately apart from one word. The error has no impact on the way the call or wider incident was dealt with. I recommend no further action is taken'</i> .	2 x S Neglect of Duty	1 x Pc & 1 x Police Staff	2 x M	W1
C/206/15	Management Action	1 x Breach Code C PACE	1 x Pc	M	W1
C/176/14	Management Action	1 x S Neglect of Duty	2 x Pc	2 x M	W1
C/372/15	Management Action	1 x S Neglect of Duty & 1 x Q Lack of fairness and Impartiality	1 x Pc	M	W9
C/407/14	Management Action	1 x S Neglect of Duty	1 x Pc	M	W1
C/718/14	Management Action	2 x Breach Code C PACE	1 x Ps 1 x Dc	1 x M & 1 x F	W1
C/995/14	No Action. (The complaint relates to police attendance at a property to search for a suspect after the owner of the property had informed police that the suspect was a previous occupant. The investigation upheld the complaint but was unable to establish who made the error.	1 x D Oppressive Conduct	U/K	U/K	U/K
C/1046/14	No Action. (This complaint relates to a letter sent to an Officer at Rayleigh police station which was not replied to. The investigation concluded that on the balance of probability it was received although it was not possible to state the Officer/Staff member involved.	1 x S Neglect of Duty	U/K	U/K	U/K

C/408/15	Management Action	1 x U Incivility & 1 x Breach Code B PACE	1 x Pc	M	W1
C/832/14	No Action (This investigation was carried out Independently by the IPCC. The upheld outcome relates to Organisational Learning).	1 x S Neglect of Duty	N/A	N/A	N/A
C/833/14	No Action (This investigation was carried out Independently by the IPCC. The upheld outcome relates to Organisational Learning).	1 x S Neglect of Duty	N/A	N/A	N/A
C/834/14	No Action (This investigation was carried out Independently by the IPCC. The upheld outcome relates to Organisational Learning).	1 x S Neglect of Duty	N/A	N/A	N/A
C/1009/15	Management Action	1 x J Mishandling of Property	1 x Ds 2 x Dc & 1 x Police Staff	3 x F & 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, 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/998/15. Days under investigation – 91

This case was recorded in December 2015, it relates to an allegation that an arrest was unlawful and that the force used during the arrest was excessive.

The delay in investigating this case has been caused by a delay in obtaining evidence from the complainant's solicitors, specifically statements. A time frame has been agreed and these are expected in the near future.

Reference: C/806/15. Days under investigation – 140

This case was recorded in October 2015, the complaint relates to inappropriate contact with a victim of crime.

There has been some delay in progressing this investigation due to delays in evidence being obtained from the specialist unit dealing with retrieval of text messages and other evidence from the officer's mobile telephones. This work is now complete and evidence is currently awaited from analysis of the officer's computer.

(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 4 Certificates of Merit and 18 Commendations issued in this quarter.

