**Performance and Resource Board 2019**

**Report to: Police, Fire and Crime Commissioner for Essex**

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| **Title of Report:** | **Public Complaints and the role of the PFCC** |
| **Agenda Number:** | **3** |
| **Chief Officer** | **DCC Mills** |
| **Date Paper was Written** | **19th February 2019** |
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| **Report from:**  | **Essex Police** |
| **Date of Meeting:** | **30 April 2019** |
| **Author on behalf of Chief Officer:** | **D/Supt 537 Dean Chapple****Darren Horsman (PFCC Office)** |
| **Date of Approval:** | **8th April 2019** |

1. **Purpose of Report**

To provide an update on the upcoming changes to the police complaints system as a result of stage three of the Home Office’s Improving Police Integrity Programme.

1. **Recommendations**

To note progress on the implementation of the Home Officer’s Improving Police Integrity Programme including an updated review of the Quality of Service Team

(Following the introduction of the new complaints system there is opportunity for a post implementation review allowing Chief Officers and the OPFCC to review its decision, taking into account the impact of Model 1 together with an understanding other forces experiences, including those who may have adopted Models 2 or 3.)

1. **Executive Summary**

This paper relates to the implementation of new regulations and statutory guidance on the handling of public complaints. It provides an update since the topic was discussed at Strategic Board on 15th June 2017.

The PFCC decision set out in Decision Paper *068-17 Changes to Handling of Police Complaints* is to implement Model 1 once the legislation has been brought into force. The decision was taken along with the decision to establish a permanent Quality of Service Team following a successful pilot in 2017.

The Quality of Service Team Pilot had established the benefit of this team in terms of improving early resolution of issues of dissatisfaction and works to provide service recovery to members of public and negate the need for escalation to PSD in order that public complaints are recorded and progressed.

Annex A (Review of Quality of Service Team – March 2019) sets out the performance of the Quality of Service Team since its implementation in 2017.

**Introduction/Background**

As part of the Improving Police Integrity programme the police complaints and disciplinary systems for policing are currently in the third phase of reform.

Phase 1 related to the misconduct regulations applying to former officers and the introduction of the barred and advisory lists.

Phase 2 related to the transition of the IPCC to the IOPC and the introduction of legislation enabling designated bodies to make super-complaints[[1]](#footnote-1).

Phase 3 relates to the introduction of the following:

* Police (Conduct) Regulations 2019
* Police (Complaints and Misconduct) Regulations 2019
* Police (Performance) Regulations 2019
* Police Appeal Tribunal Rules 2019

Phase 3 will impact on the way all complaint, misconduct and death or serious injury (DSI) investigations are handled. This phase also provides a stronger role for PCC’s within the complaints system and provides three different models. The Essex PFCC has chosen to adopt Model 1.

The consultation period has now closed in relation to draft regulations and IOPC statutory guidance and these are currently subject of consideration. Subject to any changes, regulations will be formally approved by Parliament following which there will be a six month implementation period to allow for the reforms to be brought in across all forces and PCCs within England and Wales. (Approval by Parliament was scheduled for February 2019 however this has been delayed and a future date has not yet been set).

1. **Current Work and Performance**

**Current Complaints System**

The below summarises the current complaints system:

* Expressions of dissatisfaction are received by the force in multiple ways[[2]](#footnote-2)
* Following review by PSD complaint recording decisions are made in accordance with regulations/statutory guidance.
* Recorded complaints are investigated by way of either local resolution, or local investigation, both of which provide the complainant with a right of appeal.
* Non-recording, disapplication and discontinuance are options available to the force, all of which provide the complainant with a right of appeal.



Fig.1 Summary of current complaints system including Relevant Appeal Body (RAB)

**Quality of Service Team**

Following a successful pilot between Sept 2016 and March 2017 the PFCC and Essex Police decided to introduce the Quality of Service Team to provide members of public with an initial point of contact for dissatisfaction, low level concerns and victim enquiries across the county.

Prior to the pilot there was no central function and capture for dissatisfaction and low level concerns and members of the public and victims of crime reported being ‘bounced around several teams’ and making multiple contacts before finding an answer to their enquiry.

The team try to deal with the demand at the first point of contact and identify a solution that meets the customers’ requirements to avoid escalation and provide a fast and effective response for the public.

The purpose of the team is to:

* Resolve issues ‘there and then’ and to the satisfaction of the complainant reducing unnecessary escalation.
* Introduce a continuous improvement process to ensure low level concerns are resolved, the root cause identified and change delivered in order to improve the experience of future service users.
* Accurately assess the impact of other force change on low level concerns and dissatisfaction.

During the pilot period the total number of complaints received by PSD decreased by 14% overall (recorded complaints reduced by 27%, ‘there and then’ complaints reduced by 4%)[[3]](#footnote-3).

Initial base lining work estimated that the original team of 4 staff received an average of 500 telephone and email contacts from the public each month, 10% (50) of which were resolved at the 1st point of contact**,** the balance were forwarded to LPA officers and other HQ departments for resolution.

Post pilot the team deal with around 8,500 contacts from members of the public, 46% (3,900) are resolved at the first point of contact.

After the initial pilot and as a result of the increased volume of public contact agreement was given to increase the size of the team by two members of staff.

The Quality of Service team of 6 staff now provide Essex Police with an independent assessment and resolution of public dissatisfaction and low level concerns. These provide a valuable source of feedback and provide opportunity for Essex Police to improve its service and in turn public confidence and trust.

The level of public initiated contact has increased since the refocus of the team which is now more accessible than ever before with the introduction of more channels for the public to raise concerns and seek resolution about the service received including:

* Telephone via 101 interactive voice recognition (IVR) where the Quality of Service team are accessed direct under option 3
* Online via complaints and dissatisfaction webpages as well as across the force website advice pages
* Live Chat or instant messaging allowing the public to talk in real time with a member of the Quality of Service team
* Promoting the team and the service across the force by including direct contact details on burglary packs, victim contact cards, rural crime information and crime prevention advice
* Victim letters going to every victim of crime introduce the Quality of Service team, methods of contact and the service it provides.

Formal published complaint data demonstrates the Essex Police improved nationally moving from 21st in 2016/17 to 17th in 2017/18 in relation to allegations per 1,000 employees[[4]](#footnote-4). During this time Essex Police made it easier for members of the public to report a complaint due to improvements in the online reporting process on the force website.

The team will deal with over 100,000 public contacts in 2018/19. Of the total contacts dealt with by the Quality of Service team **46%** were dealt with at the 1st point of contact, without referral to anyone else for resolution, thereby reducing the abstraction of local officers to deal with concerns from the public and providing a faster more responsive service to the public. The centralised team has also allowed institutional learning to be gathered and acted on with a variety of direct organisational improvements outlined in Annex A.

Information relating to the ongoing performance and impact of the Quality of Service Team is reported to Chief Officers monthly. During November 2018 54% of public contact with the team was successfully resolved to complainant’s satisfaction thereby removing the need for escalation to other departments and demonstrating the continued benefits of early intervention.

A full evaluation of the pilot was discussed at the Strategic Board in 2017 and is attached as Annex A to this paper. The pilot evaluation formed a key part of the rationale for the PFCC’s decision to choose Model 1 in July 2017.

**New Complaints System**

The below summarises the new process based upon current draft legislation/statutory guidance:

*Initial handling and recording of complaints*

* All expressions of dissatisfaction must be logged on force systems within two working days after the complaint was received. The appropriate authority then has a further five days to contact the complainant and seek their views on how it should be handled.
* Some complaints can be resolved quickly and to the satisfaction of the complainant, without being recorded under Schedule 3, however, a complaint will always be recorded if the complainant wishes (or if certain criteria apply)[[5]](#footnote-5)

*Referrals to the IOPC*

* Appropriate Authorities must refer to the IOPC complaints which allege that the conduct or other matter complained about has resulted in a death or serious injury, falls within the mandatory referral criteria or the IOPC notifies the appropriate authority that it must refer.

*Handling complaints*

* Non-recording, disapplication, discontinuance, and local resolutions will no longer exist
* All recorded complaints will be handled in a **reasonable and proportionate** manner, while there is some guidance in the IOPC Draft guidance on the definition of this it is assessed on a case by case basis so open to interpretation.
* A complaint must be investigated if there is an indication the allegation may constitute a criminal offence or justify misconduct proceedings, there has been an infringement of a person’s rights under article 2 or 3 of ECHR or any complaint or DSI matter the IOPC has deemed must be investigated
* All other complaints will be dealt with otherwise than by investigation normally by responding to the concerns raised seeking to resolve them or notifying the complaint of no further action.
* Where investigations are not completed by the appropriate authority within 12 months a progress report must be provided by the appropriate authority to the IOPC. Where the IOPC is undertaking the investigation the report should be provided to the PFCC and Chief Constable.

*Reviews (currently referred to as Appeals)*

* All reviews will be conducted by either the OPFCC or the IOPC (as the Relevant Review Bodies (RRBs)).
* All applications for review must be made within 28 days from the complaint being informed of their right of review (unless certain circumstances exists[[6]](#footnote-6))
* The IOPC will be the RRB for complaints which were investigated or where the complaint is about the conduct of a senior officer[[7]](#footnote-7) or the complaint arises from the same incident as one being dealt with by the IOPC.
* The PFCC will be the RRB in all other cases normally where the case was handled otherwise than by investigation and does not concern a senior officer.
* Where the PFCC is the RRB they may recommend the appropriate authority refer it to the IOPC, recommend the Appropriate Authority investigate the complaint, make any other recommendation with a view to remedying the dissatisfaction of the complainant.
* Where the IOPC is the RRB it can determine it is necessary for the complaint to be investigated or make a recommendation to remedy the dissatisfaction of the complainant.
* Recommendations do not have to be accepted by the appropriate authority, though they do have to provide a response within 28 days.



Fig.2 Summary of new complaints system including Relevant Review Body (RRB)

Whilst at first glance the changes appear to significantly streamline the complaints process, there will be significant implications in terms of increased demand as all complaints are required to be recorded regardless of when the incident occurred or whether the complaint was previously recorded. This is particularly relevant when dealing with more persistent complainants, as non-recording[[8]](#footnote-8) and disapplication[[9]](#footnote-9) options are no longer available.

**Models available to the PFCC**

There were three models available, as detailed in the table below:

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| **Area of responsibility** | **Model 1** | **Model 2** | **Model 3** |
| Receiving and recording complaint | Police | OPFCC | OPFCC |
| Assessing and allocating complaint | Police | OPFCC | OPFCC |
| Acting as a SPOC and communication with complainant | Police | Police | OPFCC |
| Resolving complaints otherwise than by investigation | Police | Police | OPFCC/Police |
| Reviews | OPFCC | OPFCC | OPFCC |

Legislation requires that the Commissioner performs the role of reviewing officer for complaint reviews which are currently completed by Essex Police (Model 1). It also provides further options outlined in Model 2 or 3. The PFCC has chosen to adopt Model 1.

**Service Implications:**

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| **Potential Benefits** | **Potential Implications** |
| * Increased public confidence, as reviews will be conducted independently from the force, providing scrutiny, accountability, transparency and independence.
* Force maintain first contact with complainant so maximise the opportunity to identify learning and embed these.
* The force is able to continue the strong improvement in successfully resolving complaints.

  | * OPFCC training required in relation to the legislation, process of conducting reviews and system use.
* What is deemed ‘**reasonable and proportionate**’ is subjective and this may result in an increase of upheld reviews as the system beds in.
* May lead to reduced public confidence/further complaints where the force decides not to action recommendations made by the OPFCC.
* Government have set out clear distinction between operational responsibility (chief officers) and strategic leadership (OPFCC). As a result any OPFCC review recommendation is not binding. If recommendations are not implemented by the Force this may result in additional complaints and may lead to reduced public confidence.
* Government will not enable HMICFRS to inspect PFCCs directly. However HMICFRS will continue to retain the ability to inspect the efficiency and effectiveness of the complaints system.
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**Resource Implications:**

It is difficult to fully understand the impact these changes will have, although an increase in demand appears inevitable. There will be significant change to working practices in relation to complaint handling and the impact of those changes will not be restricted to PSD, but force wide, irrespective of the model chosen.

This shift of responsibilities from the Force to the OPFCC will therefore also have significant impact on resources in order to meet demand.

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| **Force current resourcing** | **OPFCC Considerations** |
| * The role of Appeals (Reviews) Officer is currently performed by a Detective Inspector (ratified by Head of Department). Volume varies significantly each month. There have been 66 force appeals YTD, processed, on average, within 15 days. The role of Appeals Officer is a small part of the role within PSD.
 | * Estimated 0.2 FTE at an Officer level or above.
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**6.1 Links to Police and Crime Plan Priorities**

The Commissioner’s role in overseeing the Complaints System is an important statutory responsibility that plays a key part in building public confidence and maintaining trust and transparency. This extension of the current statutory responsibilities supports this existing role and underpins the role of the Commissioner and as such supports the Police and Crime Plan and the Commissioner’s Ethics and Integrity Framework.

**6.2 Demand**

Current performance with regards to the function the PFCC will look to undertake as part of Model 1 is as follows:

* YTD there have been 66 appeals to the force, with 16 upheld (24%). (Q3 - MSF Average 12%, National average 16%).
* Q3 - there have been 37 appeals to the IOPC, with 16 upheld (43%). (MSF average 36%, National average 38%)

**6.3 Risks/Mitigation**

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| **Risk** | **Mitigation** |
| * Unless sufficient resources are in place to manage the new responsibilities there may be a dip in service as the responsibilities transition from the force to the PFCC.
 | * Resources should be agreed in good time to allow adequate resources are in place
 |
| * Unless detailed guidance is developed by the IOPC judgements around what is reasonable and proportionate may differ between the force and OPFCC.
 | * Examples of judgements should be developed and worked through as part of the established scrutiny system.
 |
| * If the public believe the PFCC can intervene more than is legislated for, or if the recommendations resulting from the PFCC Reviews are not accepted by the Force there could be a negative impact on public confidence.
 | * Clear guidance needs to be provided and reinforced regarding the PFCC’s new role
* Care should be taken to ensure recommendations from Reviews and their responses are realistic and achievable, and the expectations of the public are managed appropriately
* Performance with regards to the force adopting recommendations made by the PFCC should be managed through the PSD Scrutiny and Performance meeting with the OPFCC.
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**6.4 Equality and/or Human Rights Implications**

N/A

**6.5 Health and Safety Implications**

N/A

**7.0 Consultation/Engagement**

Head of Public Engagement and Customer Services

PFCC Assistant Director of Communications and Engagement

Chief Officer Group

**8.0 Actions for Improvement**

N/A

**9.0 Future Work/Development and Expected Outcome**

Work is underway between the PFCC and the force to implement the changes required to accommodate the new processes to ensure compliance with regulations and statutory guidance.

It is anticipated, as with any significant change, there will be a bedding in period during which there is potential for performance to decrease. The force and PFCC will work closely together (whilst ensuring an appropriate level of independency) to ensure a smooth transition to the newly adopted process and minimise the likelihood of such an occurrence.

1. Organisations can apply to become designated bodies to raise systemic issues in policing where a feature of policing by one or more force is/appears to be significantly harming the interests of the public. [↑](#footnote-ref-1)
2. PSD, Quality of Service Team, FCR, in person, via OPFCC, via IOPC [↑](#footnote-ref-2)
3. Review of Quality of Service Team – March 2019 [↑](#footnote-ref-3)
4. Allegations per 1,000 employeesThis is a direct transfer of data from <https://www.policeconduct.gov.uk/tags/essex-police> report bulletins, [Performance data - Q4 2016 bulletin](http://webarchive.nationalarchives.gov.uk/20170914112430/http%3A/www.ipcc.gov.uk/sites/default/files/Essex_Q4%201617.pdf) and [Performance data - Quarter 4 2017 bulletin](https://www.policeconduct.gov.uk/sites/default/files/Documents/statistics/quarterly/Q41718/Essex_Q4_1718.pdf). [↑](#footnote-ref-4)
5. Matter complained of resulted in DSI, allegation (if proved) might constitute a criminal offence or justify misconduct proceedings, allegation (if proved) infringes on articles 2 or 3 of the European Convention of Human Rights, or meets mandatory IOPC referral criteria [↑](#footnote-ref-5)
6. RRB may extend the review application period on a case by case basis if ‘special circumstances’ exist (eg legitimate reason for delay outside of control of complainant, public interest) [↑](#footnote-ref-6)
7. Above the rank of Chief Superintendent [↑](#footnote-ref-7)
8. Reg 3, Police (Complaints and Misconduct) Regs 2012 provides certain circumstances where there is no requirement to record a complaint (eg repetitious, oppressive, vexatious, fanciful, abuse of process. [↑](#footnote-ref-8)
9. The Police Reform Act 2002 provides certain circumstances where a recorded complaint can be disapplied (eg incident occurred more than 12 months prior to complaint being made, repetitious, oppressive, vexatious, abuse of process) [↑](#footnote-ref-9)