

Police, Fire and Crime Panel – 26 October 2020

Implementation of Reforms to the Police Misconduct & Complaints Regulations 2020

Report of the Staffordshire Commissioner

1. Purpose of Report

- 1.1 The report updates the panel on the implementation of police misconduct and complaints reforms, as set out in the Police (Complaints and Misconduct) Regulations 2020. Implementation of which took place on the 1st February 2020.
- 1.2 The Staffordshire Commissioner became the Appropriate Authority for reviews (formally known as appeals) with the implementation of the new regulations on the 1st February 2020. The Commissioner who is known as the local review body will receive all reviews unless, they are about a senior officer, criminal or misconduct proceedings, or article 2/3 (Human Rights); the review body for these is the Independent Office for Police Conduct (IOPC).

2. Recommendation

- 2.1. That the panel note the contents and agree to receive regular updates for scrutiny at future panel meetings.

3. Background

- 3.1 The Policing and Crime Act 2017 introduced major reform to the police complaints and discipline system that were implemented on the 1st February 2020 through new Regulations. The Regulations brought in a new definition covering complaints about customer service and police practice. This is now defined as ***‘any expression of dissatisfaction with a police force which is expressed (whether in writing or otherwise) by or on behalf of a member of the public’***.
- 3.2 The reforms aim to simplify the complaints system, provide greater responsibility to Police and Crime Commissioners (PCCs), overhaul the police discipline system, provide enhanced powers for the IOPC, introduce measures to ensure greater independence in investigation and make changes to the composition and administration of the Police Appeals Tribunal.
- 3.3 Overall, the reforms aim to achieve more streamlined processes, improved timeliness, independence, accountability and transparency, greater cooperation and more

fairness for all involved. Other key objectives for the reforms are for it to be more proportionate, less adversarial and have focus on learning and improvement.

- 3.4 The specific role introduced for Police and Crime Commissioners is to increase and strengthen independence and improve complaints handling, ensuring the public can maintain confidence in the integrity of policing.

Police Complaints

- 3.5 A complaint can be received through various different mechanisms; letter, email, telephone via 101 which is then tagged to the Professional Standards Department (PSD), contact via the Chief Constable's office, or the Staffordshire Commissioner's office, or via the Single Online Home which is the police website.

- 3.6 Police complaints can be dealt with by:

3.6.1 Schedule 3 where a complaint is a recorded or investigated with a right to review to the Local Review Body (Staffordshire Commissioner's Office) or the Independent Office for Police Complaints (IOPC).

3.6.2 Logged complaint which is Outside of Schedule 3. This is an allegation where if proven would not justify misconduct proceedings. There is no right to review however, at any point the complainant can ask for their complaint to be recorded (Schedule 3 complaint) which then provides a right to review.

- 3.7 There has been a rise in complaints since the implementation of the new regulations in February 2020. Schedule 3 complaints and logged complaints in totality have shown an increase. However Schedule 3 complaints (pre 02/20 recorded complaints and local resolutions) have reduced by 32% compared to the same quarter last year (comparison is between Q1 2019/20 to Q1 2020/21), with logged complaints increasing by 183% over the same period.

Whilst some fluctuation is normal, there have been specific peaks in complaints:

- Increase in dissatisfaction in Autumn 2018 following the change to the Staffordshire Police operating model, that has since settled;
- Increase in reporting of dissatisfaction at the start of lockdown (23/03/2020)

- 3.8 Staffordshire Police are developing their approach to the management of complaints in line with the new legislation and will move to a more trust driven policing model, where there is more of a focus on organisational and individual learning and development. The Commissioner is confident that these changes, together with the

new role that he has will meet the aspirations that have been set out by government in introducing national reforms.

3.9 Further detail on the revised role of the Commissioner is detailed below.

4.0 Review Arrangements

4.1 To remind the panel and prior to implementation of complaint reforms the Staffordshire Commissioner considered the three options open to him, in respect of his role: -

Model 1 This is the minimum requirement for all PCC's. It will require PCC's to receive reviews from the public, consider whether Staffordshire Police took reasonable and proportionate action and then contact the complainant with the outcomes.

Model 2 This model incorporate the elements of Model 1 but with the additional responsibilities of receiving complaints, contacting complainants and then either recording the matter formally under the Police Reform Act (PRA) 2002, or attempting to informally resolve the issue for the complainant.

Model 3 Incorporates Models 1 and 2 and gives the PCC the additional responsibility for keeping the complainant updated throughout and providing the outcome letter.

Given the Commissioner's confidence in Staffordshire Police's management of public dissatisfaction he chose model 1, as did most other PCC's. The Commissioner does have the opportunity in the future to take on models 2 and 3. This would need to be agreed with the Chief Constable and 28 days notification given of any change.

4.2 A complainant can request a review through email, in writing, or online through the Staffordshire Commissioner's website. The process map for review processes is attached as Appendix A to the report.

4.3 Whilst the implementation of the changes took place in February 2020, it was a realistic expectation that any reviews would not be received before March 2020 at the earliest. The reasoning for this is because when a complaint has been finalised the complainant has 28 days to request a review. It was also around this time that the COVID19 pandemic impacted, which affected the police complaints function and delayed requests for a review.

4.4 As a result, the Commissioner's office started to receive requests for reviews in July 2020 and as of the end of September 2020, the Commissioner's office had received 25 requests for a review, with an upwards trend. Between the 1st October and the 12th October an additional 7 requests have been received making the total 32, and further

giving the indication that complainants are now exercising their right to request a review and that police complaints processes are working effectively.

- 4.5 Of the 32 reviews received as outlined in 4.4, there have been 45 allegations (one complaint can have more than one allegation). The themes identified are below. The categories are defined by the IOPC for recording purposes.

Theme	Number of allegations
Police action following contact	9
Decisions	6
Search of premises and seizure of property	3
Handling of or damage to property/premises	4
Use of force	2
Other neglect or failure of duty	4
Lack of fairness and impartiality	6
Information	2
Race	1
General level of service	2
Other policies and procedures	1
Impolite language/tone	4
Disclosure of information	1

To date recommendations have been made on completed reviews and a number of observations around individual and organisational learning.

- 4.6 When completing a review the role of the Compliance Manager is to consider whether the handling or the outcome of the complaint to determine was it reasonable and proportionate, the role is not to reinvestigate. Reasonable and proportionate means doing what is appropriate in the circumstances, taking into account the facts and the context in which the complaint has been raised, within the framework of legislation and guidance. Where the outcome is reasonable and proportionate there are two possible outcomes:

- Service level acceptable – No Further Action (NFA)
- Service level acceptable – No Further Action (NFA) – observations made around learnings but, not so significant that would alter the outcome of the review.

- 4.6 Where the outcome is deemed as not reasonable and proportionate and, the service level is not acceptable, one of the following options will be considered:

- Recommendation that the complaint be referred to the IOPC
- Any other recommendation under paragraph 28 of the Police (Complaints and Misconduct) Regulations 2020 other than:

- Recommendation that an apology be made to the complainant
- Recommendation that any property seized from the complainant be returned
- Recommendation that a matter be referred to be dealt with under the Reflective Practice requires improvement process.

Where a recommendation is made, Staffordshire Police then have 28 days to write to the Local Review Body proposing the actions to be taken to address the recommendations made.

- 4.7 The Local Review Body can also make observations where whilst, the service level has been considered acceptable there may be some learnings individually or organisationally which need to be brought to the attention of the organisation.
- 4.8 To ensure oversight and scrutiny of the complaints system, on any cases of over 12 month's duration, Staffordshire Police must formally write to the Commissioner and the IOPC to inform them of the reasons and actions being taken to progress the complaint. Further communication is required every 6 months thereafter until the complaint is finalised.

5.0 What next?

- 5.1 The new arrangements introduced by national reform are at an early stage of development. The Commissioner has ensured that the requirements placed on him are being met and is also working closely with Staffordshire Police to gain assurance in respect of the changes that they are making in response to reform.
- 5.2 It is anticipated that requests for review will increase as initially predicted and continue to grow over this year and into next. Complainants will recognise that in requesting a review there is an independence in the Staffordshire Commissioner's Office completing this that wasn't in place previously.
- 5.3 The Compliance Manager will continue to work with Staffordshire Police's Professional Standards Department to ensure any reform/transformational work is in line with the implementation of the regulations.

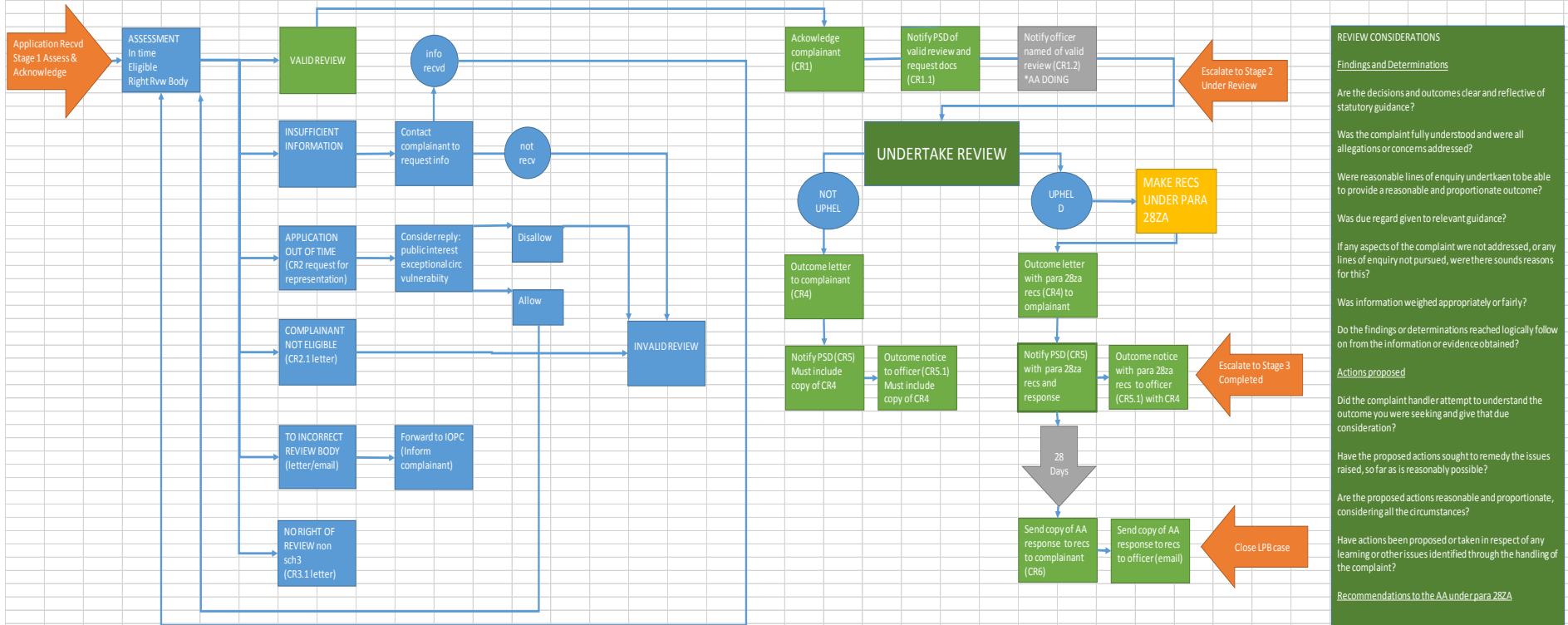
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Appendix A

COMPLAINT REVIEW - PROCESS MAP



REVIEW CONSIDERATIONS

Findings and Determinations

Are the decisions and outcomes clear and reflective of statutory guidance?

Was the complaint fully understood and were all allegations or concerns addressed?

Were reasonable lines of enquiry undertaken to be able to provide a reasonable and proportionate outcome?

Was due regard given to relevant guidance?

If any aspects of the complaint were not addressed, or any lines of enquiry not pursued, were there sound reasons for this?

Was information weighed appropriately or fairly?

Do the findings or determinations reached logically follow on from the information or evidence obtained?

Actions proposed

Did the complaint handler attempt to understand the outcome you were seeking and give that due consideration?

Have the proposed actions sought to remedy the issues raised, so far as is reasonably possible?

Are the proposed actions reasonable and proportionate, considering all the circumstances?

Have actions been proposed or taken in respect of any learning or other issues identified through the handling of the complaint?

Recommendations to the AA under para 28ZA

