

Report title: Police Complaints Report	
Report to: Essex Police, Fire and Crime Panel	
Report author: The Police, Fire and Crime Commissioner for Essex	
Date: 4 February 2021	For: Noting
Enquiries to: Suzanne Harris (Head of Performance and Scrutiny – Policing and Crime) and Joanna Thornicroft (Head of Performance and Scrutiny – Fire and Rescue) Telephone: 01245 282083 / Email: Suzanne.Harris@essex.police.uk	
County Divisions affected: All Essex	

1. Purpose of Report

This report provides an overview of the PFCC's activities during 2020 in relation to their responsibilities for complaint handling.

2. Recommendations

That Panel members note the update.

3. Background

The PFCC is responsible for handling complaints against the Chief Constable and holding the Chief Constable to account for the discharging of his responsibilities in relation to handling complaints against the force. Since February 2020 the PFCC has also been responsible for undertaking reviews of complaints recorded and handled by Essex Police that do not meet the criteria for referral to the Independent Office for Police Conduct (IOPC).

New regulations came into force in February 2020 which gave effect to changes introduced by the Policing and Crime Act 2017 and significantly altered the handling of police complaints. As well as transferring responsibility for reviewing the initial handling of complaints against the force from the constabulary to the PFCC, the new regime broadened the definition of a complaint to include any expression of dissatisfaction with the police force, expressed by or on behalf of a member of the public. The reforms were intended to make the police complaints system more independent and transparent as well as being less concerned with blame and more concerned with service improvement. A stronger role for Police and Crime Commissioners (PCCs) / Police, Fire and Crime Commissioners (PFCCs) was introduced with three models available for them to choose from:

- Model 1 (mandatory requirements): Includes a statutory duty to hold the Chief Constable to account for the exercise of their functions in relation to handling complaints. The force maintains responsibility for first contact with the complainant, whilst responsibility for hearing reviews (previously appeals) against complaint outcomes that would previously have been the responsibility of the Chief Constable transfers to the Commissioner.

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- Model 2 (the triage or initial complaints handling model): As well as the responsibilities within option 1, PCCs and PFCCs take on a triage function which carries out the initial handling and assessment of complaints. This would include the duty to make initial contact with complainants to understand how best their issues might be resolved as well as the ability to resolve complaints outside of Schedule 3 of the Police Reform Act 2002 (in the case of lower severity complaints and only with the complainant's agreement). More serious complaints would still be passed to the force to deal with. Under this model, the Commissioner would also have responsibility for the recording of complaints.
- Model 3 (the customer contact model): As well as the responsibilities within options 1 and 2, PCCs and PFCCs would take on responsibility for keeping all complainants updated throughout the handling process, and for informing them of the final outcome and their right of review.

The three models are summarised in Figure 1.

Figure 1

Area of responsibility	Model 1	Model 2	Model 3
Receiving and recording complaint	Police	PFCC	PFCC
Assessing and allocating complaint	Police	PFCC	PFCC
Acting as single point of contact (SPOC) and communicating with complainant	Police	Police	PFCC
Resolving complaints otherwise than by investigation	Police	Police	PFCC/ Police
Reviews	PFCC	PFCC	PFCC

In Essex the PFCC decided to adopt model one, the mandatory requirements model. The decision was also taken to establish a permanent Quality of Service Team within Essex Police, following a successful pilot undertaken between September 2016 and March 2017. This team provides members of public with an initial point of contact for dissatisfaction, low level concerns and victim enquiries across the county. The force has maintained responsibility for first contact with the complainant, whilst responsibility for hearing reviews (previously appeals) against complaint outcomes previously the responsibility of the Chief Constable has transferred to the Commissioner.

4. Activity During 2020

Complaints against the Chief Constable

During 2020 the Commissioner received 21 complaints against the Chief Constable. Of these:

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- 11 were referred to Essex Police as the PFCC was not the Appropriate Authority
- Two were not valid
- Two required no further action (as the complainants did not respond when asked for further clarification)
- Six were resolved (this includes four complaints relating to an inaccurate quote in the media which the Chief Constable provided a clarification on).

Two of the resolved cases were originally referred to the IOPC as mandatory referrals, however both were assessed as being appropriate for local handling and returned to the PFCC.

None of the complaints were upheld.

This compares to 22 complaints received in 2019, none of which were upheld.

The new complaints system implemented in February has introduced a much more structured assessment of which complaints require referral to the IOPC and which can be handled locally. The assessment of the accusation must be undertaken without an assessment of the validity of the accusation. In practical terms this means that, if the accusation is serious, no matter how little evidence there is, it must be referred to the IOPC. While the two cases that were referred in 2020 were later returned for local handling, this does have the unfortunate result of delaying what should be a quick resolution.

Reviews

The detailed review that is required under the new regulations provides a more in-depth insight and understanding, which enables improved scrutiny, which is much better for the complainant and gives a more robust outcome. The review must result in a decision as to whether the complaint is 'upheld' or 'not upheld', however both outcomes can result in the identification of recommendations and "oversights" for the force. This has already proven to be useful, as it enables suggestions for improvements to be made formally, even where a complaint is not upheld. Both recommendations and oversights are formally notified to Essex Police, and the force is required to respond in writing, either accepting the recommendation(s) and explaining how it will respond or rejecting the recommendation(s) and explaining why. The force may also propose an alternative to the original recommendation. Implementation of the actions carried out by the force in response to recommendations and oversights is monitored through the PFCC's usual scrutiny processes, including quarterly meetings with Essex Police's Professional Standards Department (PSD). The reviewing officer may also identify any additional concerns / learning that emerge from the review, but which do not form part of the original complaint. This process offers new opportunities to drive learning from experiences and to improve the service to the public.

Since the new regulations came into effect there have been 96 requests for Complaint Reviews received by the PFCC. Whilst higher than for smaller constabularies, this is in line with the volumes received by similar sized forces in

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the eastern region. It is however higher than the volume of appeals processed by Essex Police prior to the reforms, which had been steadily reducing as per figure 2 below:

Figure 2. Number of appeals previously received by Essex Police

Financial Year	No. of Appeals Received
2017/18	90
2018/19	75
2019/20	49 appeals and 2 reviews ¹

The increase in volume may be attributed to several possible factors including:

- The broader definition of a complaint introduced by the reforms, which permits a larger number of initial complaints to come forward and therefore to escalate to requests for reviews.
- The very unique context policing has been operating in since the reforms were implemented, with the restrictions imposed on account of the Coronavirus pandemic potentially meaning that people have more time available in which to submit complaints, feel more aggrieved in general and / or are able to complain about a broader range of topics that would not previously have featured (e.g. handling of perceived breaches of the Coronavirus regulations). 111 Coronavirus-related complaints were submitted to Essex Police in the first six months of 2020/21 alone.
- Public perception of greater independence within the review process since the implementation of the reforms, which may make people more inclined to request a review
- Increased public dissatisfaction with the police's handling of initial complaints – though the findings of the reviews processed to date do not indicate a significant diminution in the quality of this.

Of the 96 requests that have been received by the PFCC so far:

- 27 have been closed² or completed;
- None have been upheld
- Four recommendations have been made, and one oversight has been identified. The PFCC is currently awaiting a response from the force on these recommendations and oversight.

The recommendations include:

- Offering the complainant the opportunity to view CCTV footage;
- That letters informing parties that no further action should be taken are sent to all parties at the same time;
- That the complainant should be contacted to confirm the actual nature of the

¹ A combination of appeals and requests for review were received in 2019/20, as the legislative reform was implemented part-way through the financial year

² Ten were classified as invalid (submitted out of time, referred to wrong Relevant Review Body, insufficient information for a review or review request was withdrawn)

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complaint, and

- That careful consideration is given to expressing personal opinions on documentation which is disclosable and where this is necessary for the reasonable and proportionate handling of the case.

The oversight was:

- That consideration be given to the length of time that body worn video is kept, in particular retaining body worn video where a complaint has been made, until such time as the right to review request has expired, or until the review is complete.

Experience both nationally and locally shows that it is taking time to adapt to the new legislation, as police forces, PCCs, PFCCs and the IOPC are dealing with new definitions, an increase in demand, changes in the type of complaint and new procedures to be followed. This has proved challenging with the level of resources originally assigned to the task.

Original resourcing decisions were based on the pre-existing level of complaints and appeals, with allowances made for potential increases as a result of the reforms. Within the first 10 months of operation we have seen an increase in the number of cases that the police are dealing with as complaints and a consequential impact on the number of reviews the PFCC is requested to consider. It is also true in the case of reviews that each is currently taking longer to consider under the new regime than an appeal did under the old legislation, not least because this remains a relatively new area of work and responsibility for the PFCC, and as such their staff are not yet as familiar with police complaint handling policies and processes as the PSD staff in the force who would previously have handled these matters. This is expected to improve as the reforms embed and the staff become more experienced in this.

To manage this increased resource requirement the PFCC has already increased the amount of permanent internal resource assigned to this function, and is currently also recruiting additional temporary members of staff to process the outstanding and incoming reviews until a realistic assessment can be made of the ongoing resource requirement.

Holding the Chief Constable to account for discharging their responsibilities in relation to handling complaints against the force

The PFCC undertakes a robust scrutiny programme which includes monitoring all complaints, expressions of dissatisfaction and conduct matters involving Essex Police officers and staff. The Commissioner or their Deputy holds a quarterly formal scrutiny meeting with the Deputy Chief Constable to review current complaints and force wide patterns; to discuss high profile and / or serious cases, and to review organisational improvement activity arising out of this scrutiny. These quarterly meetings are also used by the Commissioner or their Deputy to track the force's progress in implementing recommendations made to Essex Police by the IOPC as a result of complaints it has investigated against the force.

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The force's Professional Standards Department provides information on a quarterly basis which forms the basis of this scrutiny session and a version of which is published on the PFCC's website. This report is used to identify themes, trends and patterns in complaints being handled by Essex Police as the Appropriate Authority. These themes, trends and patterns are considered in more detail and scrutinised through the regular quarterly scrutiny meeting between the PFCC's Office and the Deputy Chief Constable.

PFCC staff also carry out a monthly audit of an agreed number of cases (typically seven per month) which forms part of the scrutiny programme. This provides an independent view to the force of the quality of service provided to complainants in respect of:

- Timeliness and delays
- Customer contact
- Case management
- Record keeping

This audit activity often results in questions being asked of the force around the timeliness of acknowledgement and investigation of individual complaints. However, during 2020, this audit activity also identified good complaint handling practice by the force, including examples of complaints being withdrawn following swift, proactive remedial action by an Investigating Officer; additional training being arranged as a result of complaint findings, and clear evidence of the learning from complaints being fed back to the officer(s) involved and followed up subsequently to ensure this has become embedded.

The PFCC also utilises the independent public perception survey jointly commissioned by the PFCC and Essex Police to hold the Chief Constable to account for complaints handling. The latest available results (for Quarter 2 of 2020/21) show that 88% of respondents felt they would be treated fairly if they made a complaint about Essex Police. This is a significant improvement on the 70% - 71% response rate reported consistently against this question for the previous five quarters. It is too early to determine the extent to which this is directly attributable to complaints reform but will continue to be monitored.

Finally, the PFCC or their representative also attend relevant Essex Police boards including the Lessons Learnt Board and the Integrity and Anti-Corruption Board.