

To:	The Sussex Police & Crime Panel
From:	The Sussex Police & Crime Commissioner
Subject:	Police Complaint Reforms – Update on Reviews
Date:	12 March 2021
Recommendation:	That the Police & Crime Panel note the report.

1.0 Introduction

- 1.1 The Policing and Crime Act 2017 introduced a significant change to the police complaints system, building on the previous reforms to both the complaint and conduct systems.
- 1.2 The legislation also expanded the role of Police & Crime Commissioners (PCCs) in this process by enabling them to determine how complaints would be managed in their police force area.
- 1.3 The Sussex Police & Crime Panel received an introductory report about the planned reforms to police complaints at its meeting on 5 October 2018. The report confirmed that the PCC had adopted Model One (oversight and appeal body) as the preferred option in Sussex. A copy of the decision notice regarding the complaints model can be viewed through the following link: <https://www.sussex-pcc.gov.uk/about/transparency/pcc-decisions/decisions/0182017-preferred-complaints-model/>
- 1.4 A total of 39 of the 43 police force areas in England and Wales have adopted complaints Model One (91%). A further three PCCs have adopted Model Two (7%) and only one PCC has adopted Model Three (2%). Complaints Model Two and Model Three allow for further functions of the Professional Standards Department (PSD) to be extended to the PCC/Deputy Mayor for that police force area.
- 1.5 The legislation was implemented on 1 February 2020, following multiple delays from spring 2019. The new regulations applied to all complaint cases received by PSD within Sussex Police from that date onwards.
- 1.6 This report provides the Panel with an update about the police complaint reforms and the revised process for reviewing police complaints, including the categorisation of complaints, role of the Office of the Sussex Police & Crime Commissioner (OSPCC) and the oversight and monitoring arrangements in place.

2.0 Categorisation of Complaints

- 2.1 Under the terms of the Police Reform Act 2002, Sussex Police assesses each new complaint received and categorises it as one of three complaints:
 - **Non-Schedule 3.** These are low-level dissatisfaction complaints with the actions taken by the police (or otherwise) and are forwarded to local supervision to address by way of service recovery. There is no right of review at the conclusion of the process.

- **Schedule 3 – Otherwise by Investigation.** These complaints are assessed as 'low-level', in that the police officer or member of staff would not be subject to criminal or misconduct proceedings if proven. However, there is a need to determine whether the service provided by Sussex Police was acceptable or not and, as such, a formal response is required. This category also applies to Non-Schedule 3 complaints where the complainant is not satisfied with the outcome provided following service recovery and/or makes a request for their complaint to be formally recorded under Schedule 3. At the conclusion of the complaint, there is a right to review the outcome via the PCC.
 - **Schedule 3 – Subject to Special Procedures.** These complaints are more serious matters where it is alleged that a police officer or member of staff may have committed a criminal offence or misconduct so serious that, if proven, would justify formal misconduct proceedings. These matters are subject to formal investigation by PSD or the Independent Office for Police Conduct (IOPC), where applicable. The right of review for these matters is via the IOPC.
- 2.2 The police complaint reforms only provide the PCC with a responsibility to review complaint outcomes relating to 'Schedule 3 – Otherwise by Investigation'.
- 3.0 Review Process Undertaken by the OSPCC**
- 3.1 Further to the submission of a complaint to Sussex Police, the subsequent investigation and receipt of an outcome letter in respect of the complaint, a complainant has 28 days from the date of the letter to submit a request for a review to the PCC. The review process is undertaken on behalf of the PCC by two members of the Performance Team, based within the OSPCC.
- 3.2 Reviews are submitted to the OSPCC through a combination of webforms, emails and letters. Reasonable adjustments are also made to assist individuals in this process, including the availability of a large font version of the form and/or transcribing details of the review over the telephone.
- 3.3 Once received, a validity test is undertaken to ensure that the PCC is the relevant review body, that the review has been submitted within the 28-day time frame and that the complainant is eligible to submit a review.
- 3.4 Following the completion of this check, an acknowledgement is sent to the complainant setting out the next steps. Individuals are advised that a review outcome will be provided to them within 28 working days or that a further update will be provided on the progress made to date, in the instances where this is not achievable. The Statutory Guidance issued by the IOPC does not prescribe a timescale for the complaint reviews to be completed within – this remains a local decision for each PCC to determine.
- 3.5 At this stage PSD are notified that a review has been submitted to ensure that the case remains open on the police complaints system, Centurion. This approach also enables the OSPCC to access all the available documentation and materials directly through shared access to the system.
- 3.6 The complaint reviews are undertaken by the OSPCC in accordance with the IOPC Statutory Guidance and consider whether the outcome of the handling

of the initial complaint by Sussex Police was reasonable and proportionate. This includes determining whether sufficient enquiries were conducted by the Force to resolve the complaint and whether the outcome provided was fair. It is important to highlight that the complaint review is not a reinvestigation of the original case or the complaint.

3.7 As part of the review of the complaint the investigating officers within the OSPCC will consider all available evidence, including:

- Review request submitted by the complainant.
- Initial complaint submitted to Sussex Police.
- Initial assessment form completed by PSD.
- Final outcome letter.
- Computer-Aided Dispatch (CAD) records relating to the incident.
- Review of the records management system, Niche, including occurrence logs, crime reports and custody records.
- Body Worn Video (BWV) footage available.
- Written statements from police officers, staff and/or Police Community Support Officers (PCSOs).
- Any other correspondence between the complainant and Sussex Police.
- Previous complaints submitted.
- Relevant Sussex Police policies and procedures.

3.8 At the conclusion of the process a detailed outcome letter is sent to the complainant setting out the findings. A copy of this letter is also sent to the PSD. The review outcome is final and there is no further right of review. The only remaining recourse available to the complainant is a judicial review.

3.9 If the outcome is not found to have been reasonable and/or proportionate, the reviewer is able to make a recommendation(s) to Sussex Police to remedy the dissatisfaction of the complainant. Upon receipt of this recommendation(s) the Head of PSD must consider and respond in writing within 28 days stating whether the recommendation(s) is accepted and the actions that will be taken to comply. If Sussex Police do not accept the recommendation(s) made, the Force must confirm the reasons why and provide an explanation.

3.10 As the oversight body the complaint review process also provides the PCC with an opportunity to identify any organisational learning and to feed this back to Sussex Police. This learning is captured by the reviewer on Centurion – through the 'learning the lessons' area of the system – and is allocated to the organisational lead within Sussex Police for consideration and action as appropriate. Any action that is undertaken by Sussex Police to address the learning identified is reported through the Force Organisational Learning Board. Any learning identified for the Force is also communicated to the complainant in the outcome letter.

4.0 Summary Statistics

4.1 Between 1 February 2020 and 31 January 2021, the OSPCC received 155 reviews, with 146 of these reviews assessed as valid (94.2%).

Total Reviews Received	Valid Reviews	Invalid Reviews	Reviews Not Upheld	Reviews Upheld	Reviews yet to be completed
155	146	9	126	14	6

4.2 The number of reviews received by the OSPCC increased as the first year progressed with a significant number of reviews received during the months of August (24 reviews) and December (28 reviews) 2020, respectively.

4.3 Each of the reviews received by the OSPCC has been acknowledged and progressed with 140 reviews already completed and the remaining 6 reviews underway. Of the reviews completed, 126 were not upheld by the OSPCC (90.0%) and 14 reviews were upheld (10.0%).

4.4 Whilst it is not possible to make an exact comparison with the previous year due to this being a different complaints procedure under new legislation there are some comparisons that can be made with the local resolution appeal process that was undertaken by PSD previously. Between 1 April 2019 and 31 March 2020, Sussex Police considered 123 local resolution appeals with 110 of these appeals not being upheld (89.4%) and 13 appeals upheld (10.6%) by the Head of PSD (89.4%)

5.0 Upheld Reviews - Recommendations and Outcomes

5.1 The legislation permits the PCC to make recommendations to Sussex Police to remedy any dissatisfaction experienced. This can include one or more of the below examples:

- ✓ A written or oral apology.
- ✓ An explanation of the circumstances and/or operational policing decisions taken/not taken.
- ✓ Returning of seized and/or confiscated property.
- ✓ Reviewing and removing information held on police records/databases.
- ✓ Providing mediation to the complainant.
- ✓ Sharing evidence of learning and/or service improvement.
- ✓ Holding service improvement meetings between the Force, complainant and any other interested parties.
- ✓ Reviewing Force policies and procedures to ensure that they remain up to date and fit for purpose.

5.2 The PCC has upheld 14 reviews to date. The following action has been taken in respect of those reviews upheld:

- Four review outcomes were dealt with by the OSPCC – providing the complainant with the information required to ‘remedy’ the complaint in the review outcome letter.
- Three complaints were returned to Sussex Police because they had not been addressed in their entirety.
- Two complaints were returned to PSD for reconsideration and/or reinvestigation.
- Two apologies were offered to complainants on behalf of Sussex Police.

- Two officers – both the subject of separate complaints – were subject to the Reflective Practice Review Process to explore the issue of the complaint further with them and to ensure that the desired learning and improvement was achieved.
- One individual undertook a Victims' Right to Review – a scheme which provides victims with the right to ask for a review of a police decision not to prosecute a suspect.

5.3 Each of the recommendations made by the PCC to Sussex Police to date has been accepted by PSD and implemented by the Force.

6.0 Oversight, Monitoring and Organisational Learning

6.1 As set out in 3.10, the OSPCC can identify organisational learning through the complaint review process which is captured and reported to PSD on a regular basis. The following themes have been identified to date:

6.1.1 General Administration

- More information to be provided to complainants within the outcome letters including 'quality of service' decisions throughout.
- Accurate information about the police appeal and review processes to be provided to complainants.
- Consideration to be made regarding the recording of police officer, staff and PCSO details when supervisory advice and guidance is sought.

6.1.2 Investigating Officers

- Investigating Officers to contact complainants at start of the process to ensure that they are clear about the allegations being made.
- Investigating Officers to provide details of any learning identified through the investigation of the complaint to the complainant directly, within the outcome letter.
- Investigating Officers to provide a thorough review of the accounts received from all officers, staff and PCSOs and to ensure that any ambiguity is addressed before the outcome letter is finalised.

6.1.3 Operational Policing

- Police officers to deploy BWV whilst executing all search warrants.
- Sussex Police to consider developing a document or standardised form for Section 59 warnings – issued to individuals for using their vehicle in a manner which causes 'alarm, distress or annoyance'.
- Force to consider briefing police officers about proactively withdrawing from police operations that are already well-resourced when arriving at a scene.

6.2 The themes and trends from the complaint reviews are considered at the quarterly Governance and Integrity meetings attended by the PCC, Chief Executive & Monitoring Officer, Head of PSD, and a representative from People Services. The OSPCC also holds regular liaison and oversight meetings with representatives from both PSD and the IOPC where themes and trends are considered and monitoring undertaken.

6.3 An internal audit into the complaints and review system used in Sussex is currently underway for both the OSPCC and Sussex Police. The scope of the

audit is to consider whether the handling of complaints received directly by the OSPCC and the reviews of the outcomes of Sussex Police complaints, where requested are dealt with in line with the statutory guidance issued by the IOPC. The audit is being undertaken by the Southern Internal Audit Partnership and will provide a timely check and balance of the processes in place within both organisations.

7.0 Policing and Crime Act 2017

7.1 The Policing and Crime Act 2017 was introduced to build capability, improve efficiency, increase public confidence and further enhance local accountability.

7.2 The scrutiny of the police complaints system has been significantly enhanced through the provision of an independent review of police complaints, outcomes and processes undertaken, together with the identification of organisational learning, which is fed back to police forces.

7.3 The Act also set out further reforms relating to police complaints and misconduct which included:

- The College of Policing (CoP) was given the power to maintain and publish a Police Barred List. This is a list of all police officers, staff and special constables who have been dismissed from policing through the Police Conduct and Performance Regulations, as well as the equivalents for police staff. Police forces are required to report the dismissal of any members of the police force for either misconduct or gross misconduct to the CoP who update and publish the list. Each police force area has a duty to consult that list when undertaking any recruitment or vetting processes.
- The police disciplinary system was also extended to include former police officers. This means that if gross misconduct is proven retrospectively the officer will still be added to the Police Barred List and prevented from serving within another police force area again.
- The Home Secretary was given the power to change how Police Appeals Tribunals are appointed and administered including their composition, membership and management.

7.4 Additional information about the changes made to the legislation in this area through the Act can be viewed through the following link:

<https://www.gov.uk/government/collections/policing-and-crime-bill>

Recommended – That the Police & Crime Panel note the report.

Mark Streater

Chief Executive & Monitoring Officer

Office of the Sussex Police & Crime Commissioner