

**INFORMATION REPORT TO THE
THAMES VALLEY POLICE AND CRIME PANEL
17th November 2017**

UPDATE ON REFORMS TO THE POLICE COMPLAINTS SYSTEM

Background

Part 2 of the Policing and Crime Act 2017 reforms the police complaints and disciplinary systems, including increasing the oversight role and responsibilities of police and crime commissioners (PCCs); making changes to the governance of the Independent Police Complaints Commission (IPCC), providing for a new system of "super-complaints" and confers new protections on police whistle-blowers.

Key Reforms

The key reforms of the police complaints system are summarised below:

- a) Strengthening PCCs' oversight role of the local complaints system, giving them an explicit responsibility for ensuring the effective and efficient delivery of the local police complaints system, and including making PCCs the appellate body for reviewing those appeals currently dealt with by chief constables (albeit under the new system the Chief Constable will retain the right to reject any recommendations made by the PCC).
- b) Enabling PCCs to take on other functions within the complaints system, giving them the option of taking on responsibility for the front-end of the complaints system and responsibility for all duties regarding contact with the complainant.
- c) Clarifying the definition of a complaint – currently defined in section 12 of the Police Reform Act 2002 as 'any complaint about the conduct of a person serving with the police' – to one that defines a police complaint broadly as 'an expression of dissatisfaction with a force'.
- d) Retaining and clarifying the focus on immediate resolution of customer-service issues where appropriate, before such issues become formal complaints.
- e) Removing the non-recording categories (such as 'vexatious' and 'out of time' complaints) so that any issue that is not possible to resolve immediately or that the complainant wants recording, is recorded.
- f) Removing the opaque categorisation for handling complaints – 'local resolution', 'local investigation', 'disapplication', 'discontinuance' – and replacing this with statutory duties based on taking "reasonable and proportionate" action to resolve a complaint.
- g) Streamlining the complex appeal process so that there is one appeal point at the outcome of the complaint.
- h) Reformed IPCC will be known as the Independent Office for Police Conduct (IOPC).

Reforms Timetable and Progress

The Home Office timetable for implementing the reforms of the police complaints system is summarised below:

Phase 1 (Nov/Dec 2017) – implementation of ‘Former officers, barred list and advisory list’

Phase 2 (Jan 2018) – implementation of Independent Police Complaints Commission (IPCC) governance reform and re-naming

Phase 3 (June 2018) – implementation of main reforms to complaints and discipline systems

However, as at October 2017, the implementation of Phase 1 of the reforms (apparently the ‘easy bit’ according to the IPCC) was already running 6 months behind timetable. This delay suggests that the implementation of the main reforms to the complaints system (Phase 3 – due in June 2018) may not happen until late 2018 / early 2019.

Key Issues & Implications for PCCs

It is accepted that the reforms will simplify the police complaints system and make procedures easier to understand for the public and the police service alike.

It is also accepted that the change to the definition of a complaint – from ‘*any complaint about the conduct of a person serving with the police*’ to one that defines a police complaint broadly as ‘*an expression of dissatisfaction with a force*’ – will bring the police complaints system into line with the generally accepted definition already adopted by most other large organisations (public and private sector), which should also help reduce public frustration with the current emphasis on ‘personal conduct’ and ‘following due process’ in any investigation. This change should encourage greater focus by the police service on addressing service weaknesses or failures, and prioritising the speedy resolution of the cause of any dissatisfaction.

In terms of changes in PCC responsibilities, as a minimum legislative requirement, a PCC will become the appellate body to hear / review those appeals currently heard by chief constables concerning the outcomes of complaints made against police officers and police staff.

At this time I am not minded to take advantage of the enabling legislation which would allow me to take on responsibility for the front-end of the police complaints system (i.e. initial handling and seeking, with the complainant’s agreement, to resolve a complaint before it is formally recorded) or responsibility for all duties regarding ongoing contact with the complainant to keep them updated of progress and the outcome of their complaint.

In taking on the role of the appellate body, I do not intend to transfer the discrete specialist complaints function (of reviewing appeals) and associated staff resources away from the TVP Professional Standards Department (PSD) to the Office of the PCC (OPCC), as I would then be concerned about the future resilience of that appeals function in the event of, e.g. staff turnover or long-term absence. If the function was to transfer to the OPCC, the affected staff would be operating in relative isolation from the

general expertise, experience and lateral staff cover otherwise currently available to them within the PSD.

At present my four main concerns about the reforms to the police complaints system, including taking on the role of appellate body, are:

(1) The PCC will be responsible for reviewing an appeal but the Chief Constable (being operationally independent of their PCC) will have the power to reject a PCC's recommendations. Whilst this power of veto may appear logical from a legal point of view (in that it is consistent with the division of responsibilities to be exercised by a PCC and their Chief Constable as set out in The Policing Protocol Order 2011), it does risk undermining the status and credibility of the PCC (in the eyes of the complainant / general public) if, having given PCCs the responsibility for hearing appeals, they cannot then enforce their recommendations.

[NB The Home Office does not expect this possible outcome to be a common event - it assumes that such a scenario will be exceptional]

(2) The options available to PCCs within the new system may make it more confusing for the general public to understand what the arrangements are for dealing with police complaints in their local force area and why they may be different from the arrangements in adjoining force areas (which may be a potential issue in the event of any complaints involving cross-border policing incidents or issues).

(3) It is considered likely that this transfer of 'appellate body' responsibility to PCCs will result in a greater volume of escalated complaints - whether appropriate or not - being made against the PCC (rather than the Chief Constable/Head of PSD as at present) from complainants who are not satisfied with the outcome of their appeal (or in the event of the PCC's recommendations being rejected by the Chief Constable).

If this scenario manifests itself in reality, this presumed increase in volume of complaints will have a direct impact on the workload of the Police and Crime Panel, which has the statutory responsibility to handle and resolve non-serious complaints made against the PCC. However, the Act (and the Home Office) is silent on this aspect of the reforms to the police complaints system and does not address the potential issue of the limited capacity of police and crime panels to deal with any significant increase in workload.

(4) There is nothing specific in the Bill to help the police service / PCCs / Police and Crime Panels manage the incidence and impact of 'vexatious / repetitious complainants'.

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