Ethics and Integrity Panel

Title: OPCC Complaints & Reviews

Date: 26 April 2022
Agenda Item No: 12a
Originating Officer: Joanne Head
CC:

Executive Summary:

In accordance with the Police Reform and Social Responsibility Act 2011 the Police and Crime Commissioner has a responsibility in relation to conduct and complaints. The introduction of the Policing and Crime Act 2017 and subsequent complaint and misconduct regulations mandate Commissioners to deal with public complaint appeals now known as reviews.

The Commissioner is the appropriate authority for complaints and conduct matters relating to the Chief Constable only. The Chief Constable is the appropriate authority for any complaints regarding police officers (below the rank of Chief Constable) or police staff conduct whilst carrying out their work/duties under the Direction and Control of the Chief Constable.

Recommendation:

That, the Panel notes the current position in relation the number of complaints received by the Office of the Police & Crime Commissioner.

1. Introduction & Background

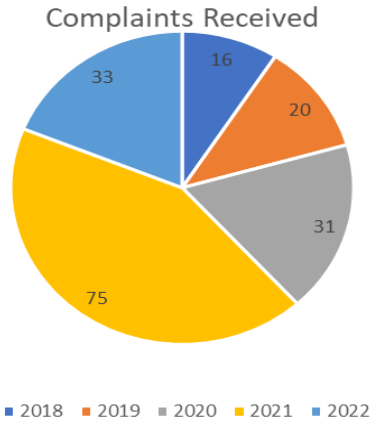
1.1 The Office of the Police & Crime Commissioner (OPCC) receives telephone calls and emails from members of the public who wish to make complaints about police officers and/or police staff under the rank of Chief Constable. As this is a matter for the Chief Constable to deal with a process has been developed with the Constabulary to forward such complaints onto the Constabulary's Professional Standards Department, advising the complainant accordingly.

1.2 Some issues which are brought to the attention of the OPCC do not constitute a complaint but are regarding quality of service issues. Again, a system has been developed with the Constabulary to pass on the issues to the Chief Constable's Secretariat. The issues are then raised at a local level with the OPCC being kept updated as to progress and advised of either a final solution which has been agreed or a final response which the Commissioner will then send to the author. A separate report is provided to this meeting.

2. Issues for Consideration

Complaints received by the OPCC

2.1 This chart details the number of complaints which have been received by the OPCC up to 30 March 2022. The complaints received were all regarding police officers below the rank of Chief Constable and the Police and Crime Commissioner has no statutory responsibility to deal with such matters.



2.2 There is a noted increase in the number of members of the public who are writing to the Police and Crime Commissioner regarding complaints about the Constabulary. This can be attributed to the visibility and increased awareness of the Commissioner's role; and a noted increase in the number of complaints being process by PSD. Where this occurs the OPCC will explain that the Police and Crime Commissioner does not have any statutory authority to investigate such complaint, and it is the overall responsibility of the Chief Constable. Contact details are provided for the Constabulary's Professional Standards Department (PSD) who are the appropriate body to deal with such complaints. If requested, the OPCC will forward the correspondence to PSD on behalf of the complainant.

Commissioner Complaints

2.3 Complaints made regarding the Police and Crime Commissioner are dealt with by the Police and Crime Panel (PCP). This Panel has statutory responsibility for holding the Commissioner to account for the work that he carries out and they are therefore the logical body to deal with any complaints. Chapter 4, Section 30 of the Police Reform and Social Responsibility Act 2011 details the circumstances in which a Police and Crime Commissioner could be suspended this being that the Commissioner has been charged with an offence which carries a maximum term of imprisonment exceeding two years. The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 details the role of the PCP.

2.4 Any complaint regarding the Commissioner is sent to Cumbria County Council's Monitoring Officer to assess and consider its severity. If it does not meet the above criteria an agreed protocol is in place whereby the Monitoring Officer will correspond with the Commissioner/ OPCC Monitoring Officer to ascertain the circumstances surrounding the complaint and provide the complainant with an explanation. If the complainant is satisfied with the explanation such a complaint would be finalised as an informal resolution.

2.5 If the complaint cannot be dealt with by informal resolution the PCP will then consider the complaint and may decide to establish a subcommittee to consider the findings of the initial investigation of the Monitoring Officer and consider whether to undertake a more detailed investigation.

2.6 The majority of the complaints received relate to individuals who are dissatisfied with the way in which the Commissioner has carried out his duties or work he has undertaken in their opinion, rather than his personal conduct. Detailed below are the number of complaints regarding the Commissioner, Mr Peter McCall, whereby the OPCC has been requested to provide information to the Police and Crime Panel.

YEAR	N° of Complaints Received	Complaint not about the PCC	Dealt with by informal resolution	Police & Crime Panel investigation
2019	0	0	0	0
2020	0	0	0	0
2021	2	2	2	0
2022	0	0	0	0

2.7 During 2021 two complaints were received by the Police and Crime Panel regarding the Police and Crime Commissioner. Following enquiries it was established that the complaints were relating to the actions of OPCC staff and therefore the complainants were subsequently advised and the matter dealt with by way of local resolution.

2.8 **Chief Constable Complaints**

The Commissioner is the appropriate authority for complaints and conduct matters relating to the Chief Constable. Members of the public may write to complain about the Chief Constable when in fact they are unhappy about the way in which policing is provided or regarding a policy or procedure rather than her personal conduct.

2.9 Changes in regulations mean that where it is apparent that the complaint is not in relation to the conduct of the Chief Constable and may in fact relate to that of officers below this rank, they are then automatically sent to the Constabulary's Professional Standards Department to deal with the issues raised. This would mean that the complaint is not in fact logged with the OPCC. As of 30 March 2022, the OPCC had not received any complaints against the Chief Constable this year.

YEAR	N° of Complaints Received	Not Logged	Logged	Dealt with by NFA	Investigation	IOPC Appeal
2020	4	1	3	4	0	0
2021	4	0	4	2		1
2022	0	0	0	0	0	0

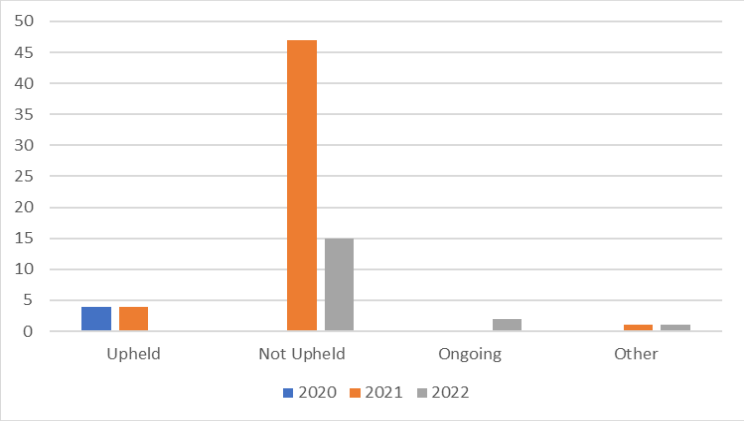
2.10 **OPCC Staff Complaints**

During 2021 a staff complaint was received which was investigated and not upheld. At the beginning of 2022 a complaint was received regarding another member of staff. Again, this was investigated and is currently in the appeal stage, the outcome of which is awaited.

2.11 **Complaint Reviews**

From 1 February 2020, the Local Policing Body became the appropriate authority to deal with complaint reviews relating to cases dealt with as Recorded – No Investigation. The reviews are undertaken by an independent review officer to provide additional independence and transparency to the process.

2.12 During 2020 the OPCC received 32 requests for reviews, with 12% being upheld. In 2021 it received 52 requests a 62% increase from the previous year with 9.6% being upheld. Up to 30 March 2022 18 requests have been received a 38% increase compared to the same period in 2021. Two are still being reviewed and of those completed none have been upheld.



2.13 Upon the completion of their review the independent review officer will provide a written determination which is then provided to the complainant. This outlines what they have reviewed, taken into consideration and their final decision.

2.14 Where the review is upheld, they may provide recommendations for the Constabulary's Appropriate Authority to consider. Within the legislation and statutory guidance, the Appropriate Authority must advise the OPCC and the complainant within 28 days of whether or not they will carry out the recommendations. The Commissioner, nor the OPCC, have any authority to direct or instruct the Constabulary to carry these out. However, as the ethos of the new process is to learn and improve, the recommendations are generally accepted and implemented.

2.15 On average the complaint reviews take 15 days from receipt to finalisation, however this will depend upon the complexity of the matter and staff availability to carry out and administer the review process.

3. Implications

3. 1 Financial - with the added statutory responsibility for undertaking complaint reviews there is an additional cost for the independent review officer. This is seen as value for money as they are only paid for the work that they carry out, there are no ancillary costs as there would be if they were an employed member of staff.

3.2 Legal – none identified.

3.3 Risk - None identified, beyond that to the OPCC's reputation if it does not deal with the issues raised appropriately and proportionately according to the merits of the individual case.

3.4 HR / Equality - none specifically identified.