

Independent Residents' Panel



MARCH 2020



Purpose of the Independent Residents' Panel (IRP)

The IRP consists of 9 independent panel members who are all volunteers representing the communities of Avon and Somerset. Their aim is:

'To act as a 'critical friend' to the Police and Crime Commissioner (PCC) and to Avon and Somerset Constabulary by providing feedback on completed complaint files to the office of the PCC and to the Constabulary's Professional Standards Department (PSD). The Independent Residents' Panel (IRP) will review complaints against the police from a local citizen's viewpoint.'

Further information can be found at:

www.avonandsomerset-pcc.gov.uk/Openness/Scrutiny/Independent-Residents-Panel

STRUCTURE OF THE SESSION

8 of the 9 Independent Residents' Panel (IRP) attended this quarter's meeting including 3 seconded members from the OPCC volunteer's team. This session focused on continuous professional development of the panel.

██████████ provided an input on 'Use of Force' in policing. Where police use handcuffs, restraint or techniques to disarm such as PAVA or taser, it can result in complaints. This is generally where the complainant feels that the force used is disproportionate in the circumstances and therefore considered 'excessive'.

██████████ provided a presentation on the use of force, when it is considered reasonable, the governance and scrutiny of its use and the law specifically the Police and Criminal Evidence Act 1984 (s.117), Criminal Law Act 1967 (s.3), Criminal Justice and Immigration Act 2008 (s.76), Common Law and Article 2 ECHR.

After this input, the Panel then considered cases as requested by the Internal Stop and Search Panel

(<https://www.avonandsomerset.police.uk/about/our-priorities/stop-and-search-statistics/>) and complaints relating to use of force. This was 6 complaints cases in total.

Panel members recorded their comments for the Constabulary's Professional Standards Department (PSD) to read, comment upon and use for any individual and organisational learning. The PCC also reviews the report.

There is also a round-table summary where each Panel member summarises their overall feedback on the complaint cases reviewed and any themes.

ATTENDANCE: SB, PKn, TW, DH, DW, CH & AD

APOLOGIES: LC, CW & PK

ACTIONS

The action register is monitored and maintained by the OPCC Head of Contacts and Conduct on behalf of the Panel Chair.

| No. | Action | Status |
|------------------------|---|--|
| CARRIED FORWARD | | |
| 1. | <p>Dec 2018 Carried Forward</p> <p>A request to the PCC and then to the Head of PSD for comments regarding obtaining Complainant satisfaction/feedback (face to face, telephone or electronic survey) for the Panel. The Panel will look for opportunities to monitor and track the 'Complaint Experience' (e.g. surveys, focus groups, one-to-one discussions). The IRP want to keep this as an overriding theme for 2019.</p> | <p>Keep in view</p> <p>Update 05/03/20 – A dip sample of early intervention cases conducted by the OPCC identified that there was a lack of qualitative data to support complainant satisfaction. This report will be disseminated to the Panel. SF has met with Zoe Jones of PSD to start looking at a means of collating complainant satisfaction. This work has been delayed due to COVID-19.</p> |
| 7. | <p>June 2019 Carried Forward</p> <p>Suggestion of a possible theme for the IRP -complaints have arisen from incorrect information or data held against an address or person</p> | Keep in view |
| NEW ACTIONS | | |
| NEW 12. | <p>December 2019</p> <p>Concern that due to the PCC changes, it limits recruitment opportunities and that the new complaints regime cannot be appropriately scrutinised with limited members. Consideration to be given to secondment of SOPP members short term and bi-monthly meetings.</p> | <p>26/05/2020 SF has co-opted three additional volunteers from the SOPP and ICV's. As the PCC elections have been postponed.</p> |

PSD UPDATE

Detective Chief Inspector Ed Yaxley

DEPUTY HEAD OF PROFESSIONAL STANDARDS



Staffing

Operation Uplift has seen the government initiative to recruit 20,000 staff. Whilst we welcome this investment in policing, we will not see the impact of these new staff for a little while due to staggered recruitment and mandatory training. In 3 years, it is likely that 50% of front line staff will be considered 'probationers' (officers who have not completed all their mandatory training and been signed off as fully competent by the Constabulary). Whilst this is a hugely positive step, we as Professional Standards, recognise that there is a risk that this lack of experience will result in additional complaints. This uplift in recruitment also presents issues for vetting and recruitment.

Each department has to think about the impact. Staffing projections have been conducted to support demand. PSD have also benefitted from the uplift with an increase in our intelligence function, complaints assessors and Counter Corruption Unit (an increase of 1 x FTE each).

New Regulations

The new regulations have now been live since the 1st February 2020. Complaints will now be dealt with very differently internally from how they were under the previous regulations. The aims and principles of the new regulations seek to:

1. Expand the definition of what is considered a 'complaint'. This in turn changes what we log and record. It is likely that we will see an increase in recorded complaints under the new legislation. The evolving picture is that every time we receive an expression of dissatisfaction either with service or conduct, we must deal accordingly.
2. The regulations raise the bar on what misconduct means e.g. a new emphasis on reflective and learning practices. Only cases of conduct issues that would reasonably result in a sanction of written warning and above being found as the outcome will now be dealt with by PSD. Low level conduct issues will be considered under Practice Requires Improvement which is a collaborative process between the Line Manager and staff member subject to the complaint which seeks to identify learning and improve performance.
3. Learning is not just identified on individual basis. Work will be done to identify departmental and organisational opportunities to share learning, reflect and improve.

It is worth noting that it is very early days and we are trying to understand the guidance and the processes at this stage. We are in a very good place and are working with regional partners and the IOPC to ensure consistency.

Intelligence

Currently our intelligence infrastructure comprises of:

- Intel Manager
- Researcher
- Analyst

We are about to double the size of the team which will increase their capacity significantly. This provides the opportunity for Intel investigators to be 'out on the ground' attending staff briefings and speaking with key partners such as Independent Sexual Violence Advisors and Independent Domestic Violence Advisors to ensure that there are no misconduct issues regarding police behaviours towards victims or those most vulnerable. There will also be an internal piece of work around communication with staff to understand what the Counter Corruption Unit priorities and concerns are to ensure that they understand their responsibilities and avoid compromising their integrity or that of the organisation.

NIM

The **National Intelligence Model** is the new way of identifying the threats within PSD, assessing the risks and themes. This type of tasking process ensures that the work of PSD is structured to mitigate risks. Abuse of position for a sexual purpose is one of the biggest risks for policing and there is concern nationally for PSDs. This is one of the five themes that will be focused on as part of the new model. The five themes are:

- Abuse of position for sexual purpose
- Drugs
- Fraud
- Corruption
- Data

One of the most recent cases of this nature showed that officers on the team knew about the relationship between the officer and the victim or at least had a suspicion. By having a more rigorous approach to ensuring that officers know what is appropriate we can deal with it more effectively. It also will increase confidence in reporting, understanding of their responsibilities under the **Code of Ethics** and being more approachable.

HMICFRS

HMICFRS inspected Avon and Somerset PSD last year, specifically the Counter Corruption Unit and Vetting Department. They identified 4 areas for improvement which were in keeping with what was anticipated. It is likely that HMICFRS will inspect again this year and the theme is likely to revolve around a focus on the new regulations. We have already been notified that they will repeat their inspection on Vetting and CCU.

A lot of work has gone into Vetting to improve service and efficiency. The processes and procedures require further scrutiny however I am pleased to report that the backlog has now halved. As part of this work, we are always cognisant of the potential for disproportionality - how we approach those with protected characteristics. It is recognised that people from BaME communities are more likely to fail vetting, as officers and staff be referred to PSD or end up in misconduct proceedings. PSD have worked closely with key stakeholders internal and external to develop an Equality Plan which seeks to analyse and address potential blockers and ensure accessibility and fairness for all.

PSD Q&A

Based on the dip samples conducted by the Panel earlier in the day with Chief Inspector Ed Yaxley and Sally Fox, Head of Contacts and Conduct for the Office of the A&S PCC.



Q Panel Member - When you say that the category of complaint is now wider, does that mean that any expression of dissatisfaction i.e. social media you are now obliged to record formally as a complaint?

Essentially yes so for example when we receive a call to our Control Room from somebody dissatisfied with the time it has taken to return their property; whilst this is not formally recorded, it should be 'logged' and resolved at source which enables us to record and report it.

A good example of social media is when there is an M5 closure. The force Twitter and Facebook pages receive streams of comments from people unhappy with the road closure. Where the complainant is identifiable and contacting direct, there will be an emphasis to log this and seek to resolve the dissatisfaction in a reasonable and proportionate manner. This is an example of an active complainant. Where someone has posted their dissatisfaction via an indirect account and is voicing their opinion this would be considered a passive complainant. Depending on the circumstances, the Corporate Communications Team may direct the complainant on how to make a complaint.

We have provided a lot of training with 1st and 2nd Line managers to ensure that they understand the processes, their responsibilities and are able to apply the new regulations appropriately and we will continue to work with colleagues to ensure that this approach is embedded over the coming months.

Q – Panel - Do Avon and Somerset Police have any problems with corruption?

The definition of corruption and covers a lot more than you may think. It could be an officer waving a warrant card whilst off duty in order to influence a situation, embarking on a relationship with a victim etc. What we don't see is much intelligence about officers involved in Organised Crime Groups or bribery. Nationally you do see forces infiltrated by organised crime. Currently we only have one case that is now drawing to a close.

Q – Panel - How many cases of corruption do you see in a year?

In the last month we have received on average around 6 referrals for abuse of police powers for sexual purpose. None have been received for corruption or organised crime. We have had a couple of theft cases that are very concerning due to the nature of the policing role and as they are live investigations I cannot give any further information than that at this stage.

Some of those referrals the allegations will be unfounded and by end of year will have a better idea what our statistics for corruption look like under the new regulations.

Q Panel –I have spent the majority of today’s session focused on one complaint which centres on an altercation between two brothers and the complainant made 9 separate allegations to PSD. The final letter states that none of the complaints are upheld and includes the IO report and this is a summary of all the evidence that has been gathered which is 38 pages. I cannot see anything in the 38 pages that helps you connect the complaint and the evidence with the conclusion that was drawn. It is very thorough but as it was a low level complaint, would it not have been more efficient and better for the complainant to have just acknowledged each allegation succinctly specifying the exact evidence that countered the allegation?

Yes I agree; whilst it is commendable in terms of transparency it is too much. The pro-forma responses have been refreshed under the new regulations however there is still room for improvement. The Investigating Officer reports are on the way up and seeking to remove the duplication, supported by the regulations which set out a far clearer Terms of Reference around the action that will be taken to resolve the matter. Language around upheld/not upheld is gone and has been replaced with service level acceptable or not acceptable.

Q – Panel - Where the complainant has ticked the ‘do not update’ box does the 28 day update still take place?

Internal cases are programmed to highlight themselves for review and will always come up at the 28 day mark. Irrespective of whether any update is requested we will always try and ensure that a review of complaint status is completed at this stage.



Q Panel – I noticed that there was a lack of body worn video in the case I looked at and the rationale provided by the attending officers was inconsistent. Is it being used consistently?

PSD – In the large majority of cases it is being used and it has been extremely helpful in resolving conflict and complaints. It is now considered compulsory and whilst there is a very small minority that are failing to use it, I believe the compliance is over 80%. We monitor the use of BWV and the force lead Chief Superintendent Richard Corrigan will personally write to anyone who has been identified as not using their BWV.

PANEL FEEDBACK

This feedback report contains Panel members' comments and views, both positive and negative, along with the responses from the Professional Standards Department. All Panel member completed feedback forms are scanned and are also available to the PSD to review.

HIGHLIGHTS OF POSITIVE FEEDBACK

- [REDACTED] Letter from [REDACTED] was courteous and appeared fair in its consideration of the facts as reported.
- [REDACTED] Response to complaint well documented (Reference clear but no date regarding incident in letter). Supporting reports and documents contain sufficient detail to confirm decision.
- [REDACTED] Officers were observant and reacted quickly in the interest of the victim. It does appear that an apology was provided here but not regarded as necessary as the officers were protecting a vulnerable individual.

Although the Panel were only able to sample a reduced number of cases this month due to the training input, members found significant positives in the level of courtesy, fairness and professionalism demonstrated in the cases they reviewed.

[REDACTED] Investigating Office [REDACTED] was recognised for her efforts with this complaint. She kept in touch regularly with the complainant throughout and continually asked for the complainant's version of events. It was a thorough investigation, was taken seriously, dealt with professionally and concluded in a timely manner.



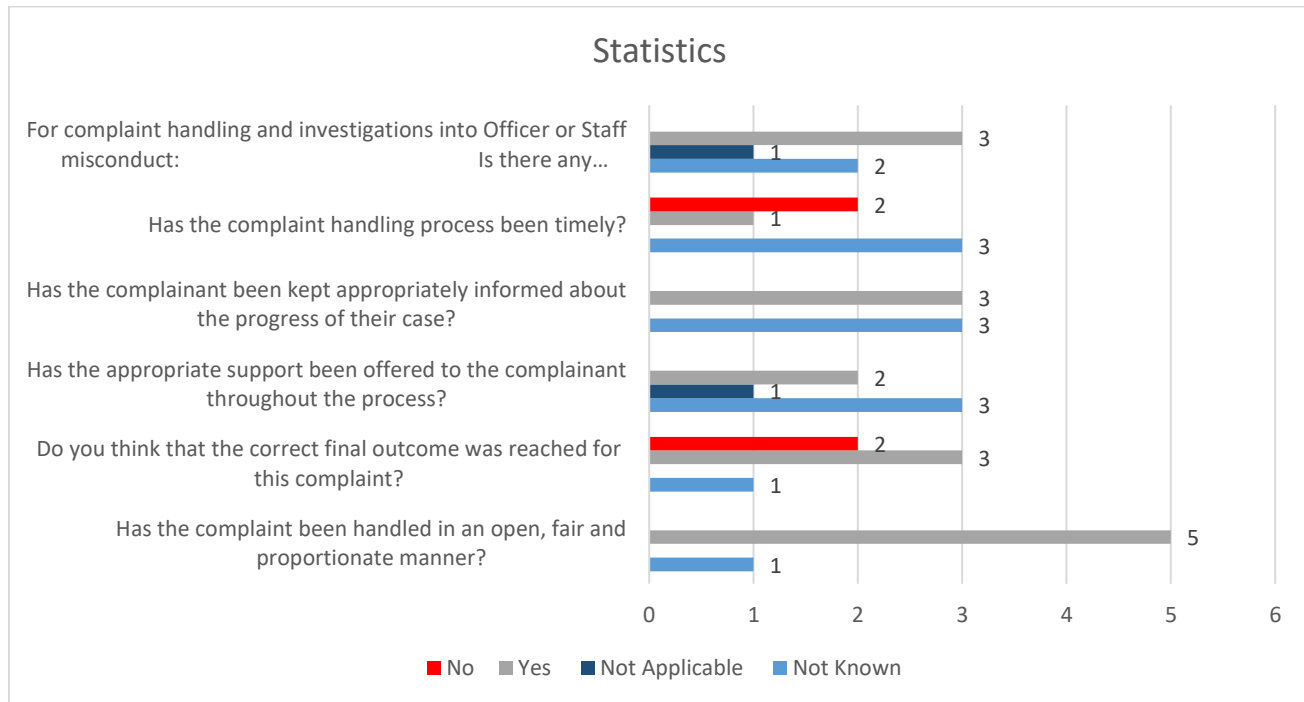
The IRP and the Professional Standards Department recognise the importance of the reward and recognition of staff who are performing well and providing an excellent service to the public. All those identified in this session will receive the feedback from the Panel and where appropriate, submissions will be made for consideration of formal recognition by the Constabulary.

HIGHLIGHTS OF CONCERNS, QUESTIONS OR ISSUES RAISED BY THE PANEL

| FEEDBACK FROM PANEL | COMMENTARY FROM PSD |
|---|---|
| Concern raised in PSD discussion about the size of the report (38 pages) however panel member also raises the question of why it took 6 months to complete this investigation. | 6 months is not an excessively long amount of time. 29% of current complaint/conduct cases fall into the 3-6 bracket. In my opinion 3-6 months is very much an average investigation time. |
| Concern raised about the grounds cited for Stop and Search in this case, specifically parental consent. Is PSD content that this is an appropriate use of S&S powers and can a S&S be carried out legally based on parental consent? Should S&S be used as a deterrent strategy? | Deterrent strategy – no. However if the parent provides intelligence and or/information that gives the officer the honest held grounds of belief, that the person that they are seeking to stop and search has criminal items concealed on their person, then that would be a legitimate and lawful use of S&S. Parental consent is not necessarily applicable. You don't have to have an appropriate adult present to S&S somebody. I have read the conclusions of [REDACTED] report – there is clearly an individual issue with the officer. Training needs have been identified and feedback through the correct channels. |
| How do PSD monitor staff reports, in particular where repeated complaints (either in nature, or from same family) are made? | When the assessor and complaint handler, reviews and logs the complaint, they will search the complainant's details on our complaint system, Centurion. They can then look back at the complaint history. If the complaint is repetitious, they can record the complaint, but decide to take no further action because of the repetitious nature. In regards to complaints against the same staff/officer – again when assessing and recording the complaint, staff history will be looked at |
| Conflicting statements as to BWV usage - response to complaint good but suggests Police could be responsible for loss of passport. Suitable procedures should be put in place to ensure BWV is fully operative before leaving for duty. Lack of BWV prevents confirmation | I agree – the stance has always been for everyone present to put their BWV on. It is unfortunate that in this instance, the officers BWV failed. Force Policy does state that an officer should ensure that the camera is in good working condition at the start of their shift. This feedback should be provided by the line manager. |
| Lack of information available on the Q Drive file – cannot see any documentation between 22/08/2019 and 31/12/2019? | I'm not sure if there has been a mistake here – I can see various correspondence and collection of officers PNB's in the Sept-October month |
| Why was BWV not available of this incident? | BWV guidance states to record at the following: BWV should only be used in pursuit of a legitimate policing aim; necessary to meet a pressing need; proportionate; effective, and compliant with any relevant legal obligations. <ul style="list-style-type: none"> • Protecting life and property • Preserving order |

| FEEDBACK FROM PANEL CONTINUED | COMMENTARY FROM PSD |
|--|---|
| | <ul style="list-style-type: none"> • Preventing the commission of offences • Bringing offenders to justice • Any duty or responsibility of the police arising from common or statute law <p>It would be advisable to have body worn camera activated for a stop search, however sometimes officers can forget to activate it due to the spontaneous nature of policing. It would appear in these circumstances that their BWV's weren't activated.</p> <p>If a stop search is now conducted, and then complained about, and there is no BWV available. Chief .Supt Rich Corrigan takes this individual feedback and liaises with the line managers.</p> |
| <p>Why did this case take 10 months to complete as this time period appears disproportionate to the nature of the complaint? What updates were given to the complainant and the officer concerned</p> | <p>Response Sgt [REDACTED], Professional Standards:</p> <p>The complaint was made on 18/1/19, but held sub judice until 11th September 2019. The complainant was being prosecuted for his behaviour that night. That timescale is out of my control and I cannot interfere with that process.</p> <p>I completed my investigation on the 6th December 2019 with a couple of minor alterations made after that. The complaint was then sent out with a final letter by [REDACTED] on the 6th January 2020.</p> <p>So I completed my investigation 2 and a half months after the criminal case ended. This is not an unexpected timeline bearing in mind the size of my workload at the time, as well as having had a 75% reduction in staff in the preceding 5 months where I had effectively a quadrupled case load and the significant legacy that brought with it.</p> <p>The complainant's solicitor received the sub judice update. They were made aware of the criminal timeline and so were provided no updates in the meantime as I had no update to give and understood this. I accept that I could have done so as a matter of course, but they were aware it would begin again upon conclusion, I note though that I did not email them upon resumption of the investigation which I should have done and will improve upon.</p> <p>Updates to the officers were provided by email and phone, but I have identified that these were not added to the case file which is a mistake on my part. This was almost certainly due to my excessively high workload at the time.</p> <p>I have taken some learning from this case in relation to updates and ensuring I add them to the system to record it.</p> |

STATISTICS



This chart related to the six questions in the feedback form. Panel members record 'not known' when the case file does not give sufficient detail to allow a categorical yes or no answer.

Comments from the Professional Standards Senior Leadership Team:

The scrutiny and oversight of the Independent Residents Panel is a key aspect of ensuring legitimacy in policing. The panels' observations and feedback are valuable in terms of identifying good practice and also opportunities to reflect and learn. I'd like to thank the panel for the time and commitment that they have given in reviewing these cases.

Head of Professional Standards Department



Comments from PCC Sue Mountstevens

'Officers have the power to use force where required but the use of such force must always be reasonable and proportionate. The police must be able to assure the public that these powers are scrutinised and regulated to ensure professionalism and public interest at all times. I welcome this additional scrutiny and as always, the work of the Independent Residents Panel is a fundamental aspect of the PCC scrutiny of police complaints'