

Independent Residents' Panel

December 2020

Contents

Page 3 | **Purpose of the Independent Residents' Panel**

Page 3 | **Structure of the Session**

Page 4 | **Actions**

Page 4 | **PSD Update**

Page 5 | **Theme - Abuse of Police Powers - Presentations by Avon & Somerset Police Counter Corruption Unit and the Independent Office for Police Conduct**

Page 7 | **Panel Q&A**

Page 8 | **Highlights of Positive Feedback**

Page 9 | **Highlights of Concerns, Questions or Issues raised by the Panel**

Page 11 | **Statistical Analysis**

Page 11 | **Comments from Head of Professional Standards**

Page 11 | **Comments from Police and Crime Commissioner Sue Mountstevens**

Purpose of the Independent Residents' Panel

The Independent Residents' Panel (IRP) consists of 11 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 [on our website.](#)

ATTENDANCE:

Attendees: SB, KS, DH, LC, CH, DW, TW, AD, PK & PAK

Apologies: CW

STRUCTURE OF THE SESSION

Due to COVID-19 and lockdown measures, the Independent Residents' Panel was facilitated virtually. 10 members attended including 3 that have been seconded from the OPCC volunteer's network. The Panel opted to focus their meeting on **'Abuse of Police Powers'**, which refers to officers and staff exploiting the powers afforded to them by their role for their personal agenda. This covers a broad range of complaints with varied themes such as the inappropriate use of police systems to instigating relationships with vulnerable victims.

The Panel welcomed presentations from DC Craig Thomson of Avon and Somerset Counter Corruption Unit and Frances Taylor, Stakeholder Engagement Officer for the Independent Office for Police Conduct. These inputs assisted the Panel with their understanding of the roles both units play in investigating and challenging incidents of this nature.

Total number of cases sampled: 24



ACTIONS

No.	Action	Status
1. Dec 18	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 2019/2020.	Dip sample report circulated to Panel. KEEP IN VIEW
7. June 19	Suggestion of a possible theme for the IRP - complaints have arisen from incorrect information or data held against an address or person.	KEEP IN VIEW
New Actions		
14. December 20	D/Supt Jane Wigmore to look at the use of the term 'fanciful' in complaints handling, especially in context to complainants where mental health is a factor. To consider supporting commentary to enable understanding if this is considered appropriate terminology.	

PSD UPDATE

Temporary Detective Superintendent Jane Wigmore & temporary Detective Chief Inspector Gary Stephens

STAFF CHANGES

There has been a lot of staff movement over the last few weeks as Detective Superintendent Simon Wilestead retires very shortly and we recognise all his efforts during his time as Head of Professional Standards. Temporary Detective Superintendent Jane Wigmore has now been appointed to lead the PSD team with temporary DCI Gary Stephens supporting. This has seen movement at Inspector and Sergeant level however the vacancies have, in the majority, been filled through internal staff maintaining the vital knowledge and experience within the team.

NATIONAL AND REGIONAL UPDATES

The implementation of the new regulations has shown an increase in complaints. Anecdotal feedback from other forces suggests that this is the case nationally and this is believed to be a direct result of the parameters of the new regulations, specifically that any expression of dissatisfaction with the service provided or conduct of an officer is considered a complaint under the regulations.

Avon and Somerset PSD are working with other forces at a regional level to try and pull together the data and provide the evidence for this substantial increase.

DATA

At the moment the unit is receiving on average 166 complaints per month which are a mix of complaints considered Non Schedule 3 and recorded as Schedule 3 under the Police Reform Act 2002. In Sept, 89% of complaints were resolved at first point of contact with 70% of complainants contacted within 3 working days of submission. With continued remote working due to COVID-19 and the substantial increase in demand, this is testament to our staff for providing this level of turnaround.

In order to understand our complaints demographic we do record ethnicity data and we do know that 11% of complaints are from those from Black and Minority Ethnic groups. We also know that 31% of our complaints are from 'unknown' ethnicity and we need to do more work to improve on this ethnicity completion rate to truly understand the complaint themes reflected by our communities.

OTHERWISE BY INVESTIGATION (OTBI)

As part of the new regulations, the threshold for misconduct changed which has seen more complaints being handled locally by a process known as 'Otherwise than by investigation'. This allows complaints handlers to resolve complaints in the most reasonable and proportionate way and some of these cases are best handled through a process called 'Practice Requires Improvement'. This is a reflective process that up until now, due to COVID-19, has been managed by PSD but as of the 16th November 2020 we have started a trial to return these cases back to line managers. This is an important part of the regulatory changes as it seeks to provide a more holistic approach to complaint management and ensure meaningful conversations between managers and staff subject to the complaint to identify learning and professional growth.

ABUSE OF POLICE POWERS

**Presented by DC Craig Thomson,
Counter Corruption Unit**

Officers investigated for abuse of position attract local and national press attention which therefore impacts on public confidence in policing services.

The Code of Ethics is the cornerstone of how the police should behave and sets out the principles and standards of behaviour we expect to see from police professionals. It applies to every individual who works in policing, whether a warranted officer, member of police staff, volunteer or someone contracted to work in a police force.

Useful further reading:

[IPCC The abuse of police powers to perpetrate sexual violence](#)

[HMICFRS PEEL Spotlight Report – Shining a light on betrayal](#)

[College of Policing – Maintaining professional boundaries](#)

“The Police have to make difficult decisions with ethical implications every day and the code encourages staff to consider their responsibilities and promotes confidence in the public.”

There are three distinct areas where officers and staff have been found to abuse their responsibilities to the public:

- Theft
- Data Protection Breaches
- Abuse of position for sexual purposes

Police are there to ensure public safety however there have been incidents where a very small number of officers have abused their position to steal, abuse police information for their own personal use or engaged in inappropriate relationships with vulnerable individuals for sexual purposes.

This is a national issue and one that is being robustly tackled by the Independent Office for Police Conduct, the National Police Chiefs' Council and Professional Standards Departments across the country.



Avon and Somerset Police take the standards of professional behaviour of their staff very seriously and where these breaches are identified, those responsible are dealt with in accordance with the police complaints and misconduct proceedings which can ultimately result in dismissal.

Training is being provided to all public engaging staff on these matters and to ensure that officers and staff understand where the line is and what constitutes an abuse of their powers.



Presented by Frances Taylor - Stakeholder Engagement Officer

The Independent Office for Police Conduct (IOPC) oversees the police complaints system in England and Wales. They investigate the most serious matters, including deaths following police contact, and set the standards by which the police should handle complaints. They use learning from their work to influence changes in policing.

Where complaints are considered very serious or subject of a mandatory referral they are sent to the IOPC for assessment. The IOPC will decide whether to return them to the appropriate force for local handling, return them but direct the investigation or to retain them for independent investigation.

The IOPC also act as the appeal body for more serious complaints, reviewing the actions of Professional Standards to ensure that complaints are handled fairly and proportionately, always in accordance with the IOPC Statutory Guidance. More information on the IOPC is [available here](#).

PANEL Q&A

Panel Member – When officers are the subject of repeat complaints, are you able to take a cumulative view of how many times an officer has been spoken to, especially in light of the regulatory change?

PSD – *When a complaint or conduct matter is recorded we check the history to see whether there is a serial. Misconduct and Gross Misconduct are still there. There is a College of Policing test which considers harm, capability, mitigating factors and as such this would allow us to push this up in terms of severity and outcomes. QlikSense (the force data analytics tool) is used in PSD to assist in looking at this history at an organisational, departmental and individual level, for example the number of stop checks and activity of certain people.*

Panel Member – What is Reflective Practice Intervention?

PSD – *Where an officer's actions or behaviour are alleged to have fallen below the expectations of the organisation but are not considered serious enough to warrant misconduct proceedings, a reflective practice review process can be invoked. This is a formal process which is reflected in the legislation and designed to give officers and line managers an opportunity to discuss where things have gone wrong and to look for ways of addressing issues.*

Panel Member – What is the percentage split of complaints relating to those concerned that the police have not done enough enforcement and those that feel the police have done too much enforcement?

PSD – *It is difficult to make direct comparisons as the legislation has been subject to much change in a short period and we have to look at the matter of complaint in accordance with the legislation at the time. The complaints that we have received are generally more about an officer's interpretation and application of the legislation. We have also seen some members of the public deliberately coughing and spitting at officers which also poses a COVID risk.*



Panel Member – I understand that the majority of PSD staff are working from home but do not have phones to speak with the public. This was raised at the last meeting. I have seen in my audit that people have not been phoned as staff do not have the equipment. What is being done to address this?

PSD – *As you are aware, the entire force was expected to move to home working very swiftly and whilst Avon & Somerset Police were already significantly ahead in their digital roll out, there were challenges in obtaining all the kit required due to the demand across the force and operational services had to be prioritised. PSD should be phoning people from home where they have the equipment to do so and we are working towards getting all our staff that require phones in the near future.*

Panel Member – There are disproportionality issues in relation to representation, Fixed Penalty Notices and Stop and Search for the BaME community. What is being done to address this both at Avon and Somerset and nationally?

PSD – *Avon and Somerset are committed to becoming the most inclusive force in the country and PSD have been working with local equality leads SARI as part of our internal training and to develop our own strategic Inclusion and Diversity plan. Much of this has been developed in line with the work completed nationally by National Police Chiefs Council lead DCC Phil Cain of North Yorks Police. Further information is available [here](#).*

HIGHLIGHTS OF POSITIVE FEEDBACK



“Thorough investigation including careful consideration of the discrimination”

Panel Member

Positive Commentary from the Panel:

- “The best way to counteract unconscious bias is to be cognisant of it and to apply a set of guidelines or criteria. In my opinion the ‘Public Complaint – Otherwise than by investigation’ form is commendable because it contains a specific section which requires the investigator to apply IOPC guidelines on this issue. Whilst this is not a complete answer to eliminating unconscious bias, I think it is an excellent tool and an example of good practice.”
- “Very thorough investigation by Investigator BUDD, to pull together a comprehensive summary and conclusion”
- “Letter from Detective Chief Insp Gary Stephens seems a fair and reasonable response.”
- “I believe that the Officers involved that night used necessary force to arrest a hostile, drunk driver, holding a glass bottle that had already fled from the scene to avoid arrest. I also believe the complaint has been thoroughly investigated using BWV statements from the Officers and the account from the complainant leading to a satisfactory outcome.”

“The PSD letter recites the history of the matter before concluding that the current complaint is no more than a repeat of an earlier complaint. The grounds for this decision are explained. The letter clearly sets out the complainant’s right of review and how to go about seeking a review.” Panel Member

HIGHLIGHTS OF CONCERNS, QUESTIONS OR ISSUES RAISED BY THE PANEL

Panel Member Feedback	PSD Response
<p><i>"During the IRP meeting Q&A panel member requests that PSD read the letter that was sent to the complainant's family and reflect on this. Remarked there is a lack of empathy displayed, the case took 2 years to go to court which had a substantial impact on the family and then the complaint took some time to resolve. Queries if the specific officer and investigating team realise the impact of their actions on the complainant's family?"</i></p>	<p>This matter was dealt with as a local resolution case under old regulations. The letter sent to the family/complainant was sent by an officer not based within PSD. It is very factual and covers a timeline of the investigation very thoroughly. The panel have commented on the lack of empathy. I would tend to agree that the language used in this letter has been very matter of fact and quite direct. Complaint letters like this vary in style depending on the person writing/dealing with the complaint. However taking into account the circumstances of the complaint, I would have ideally liked to have seen a more personable approach and compassion in the summary of the letter.</p> <p>All finalisation letters allocated outside of PSD are now subject of a QA process so the quality of responses can be reviewed, amended where necessary and feedback given.</p>
<p><i>"The BWV has not been accessible, has excessive search attitude been adopted even though documented explanation is available? BWV comments from a serving police officer, would an independent individual's view be different?"</i></p>	<p>The investigating officer did not conclude that the search was excessive. The investigating officer conducted a proportionate investigation in line with the handling of complaints under 'otherwise than by investigation' (OTBI).</p> <p>The letter completed is thorough and provides clear conclusions. The investigating officer is not a Police officer and is a Police staff member. There are instances such as complaints surrounding excessive force, whereby a field expert would give their opinion on the body worn footage and allied material, however for an OTBI investigation, and a complaint surrounding a stop search, it is reasonable and proportionate that the investigating officer gave their opinion in order to reach conclusions.</p>

“Why did the complaints investigation have to wait until the end of any proceedings in case it conflicted, but then it was deemed acceptable to proceed with the complaint?”

Why did the Body Video camera fall off the officer then reconnected after 9 seconds, does this happen much and how secure are the video devices attached to the officers?”

The investigating officer explains that the complainant may use his complaint account as a defence during criminal proceedings. So as not to prejudice criminal proceedings it is not advisable to proceed with a complaint investigation whilst proceedings are still underway. The investigator has sought advice from the CPS about doing this, which is recommended by IOPC Statutory Guidance in such circumstances.

It not possible to explain exactly why the device turned off for 9 seconds. The devices are attached to officers and slide into a clip, this is below the collar bone area on their body armour. It is possible that during a physical incident, the camera can be knocked about or knocked out of the holder. It is not unusual for cameras to be turned off or sound lost during such incident.

Questions raised around the appropriate use of language in this case. Request to review previous complaint and ensure that it was managed professionally. Consider whether enquiries regarding safeguarding measures for the complainant were relevant and necessary. Relevant information surrounding risk assessment may have been accessible on niche but panel member unable to see this information.

Feedback has been given to the Complaint and Assessment Officers around the language used in their letters when deciding if the complaint is 'Fanciful' - this is a term used in the IOPC Statutory Guidance. The template letters have recently been amended to enable the Assessment Officer to add clarity for the complainant to understand this term and to explain it rather than use such an emotive standalone term.

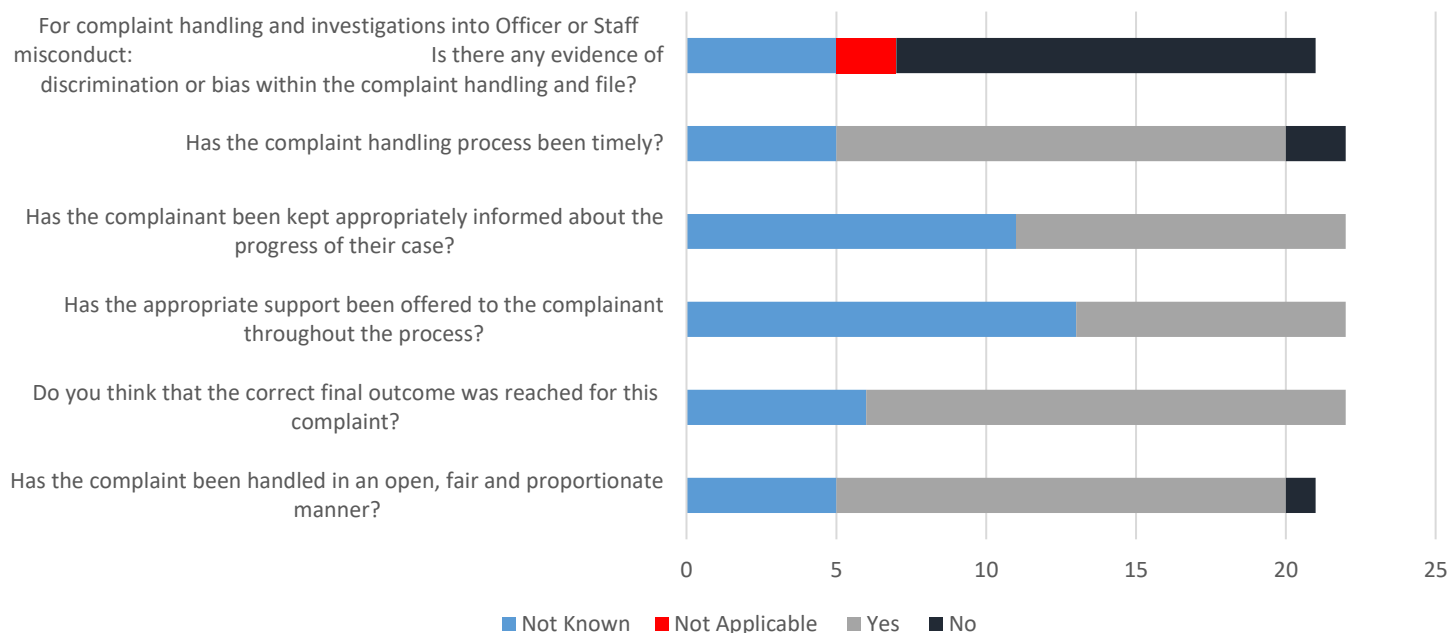
In regards to this particular case, feedback has been given to the specific individual who recorded it.

In regards to safeguarding where safeguarding measures should be explored contact is made with the relevant team to request this. The Assessor on this case has advised that from a safeguarding point of view, he needed to ensure that there were no concerns for his welfare. He telephoned adult social care and without seeking information and potentially breaching confidentiality he merely sought reassurance that they were still engaging with the complainant and that he had a social worker in place for support.

In cases where direct feedback was highlighted for the attention of the handling staff member, PSD has ensured this was considered.

STATISTICAL ANALYSIS

December 2020 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 Head of Professional Standards Detective Superintendent Jane Wigmore: 2020 was not only a challenging year because of the pandemic but also because of international, national and local significant events that has raised concerns from the public about how police use their powers. We have seen an increase in relevant complaints as a consequence which reinforces the importance of Professional Standards transparency and accessibility for our communities. We value the additional scrutiny through the Independent Residents Panel as a mechanism for departmental reflection and learning. In November 2020, we commenced a pilot to reallocate simple complaint handling back to operational departments with a view of improving engagement with complainants with their local teams and implementing and embedding reflective practice. Where complaint handling identifies a low level breach of Standards of Professional Behaviour, reflective practice is a tool to allow line managers to speak with officers and have constructive discussions on where things went wrong and how to prevent future mistakes. The pilot is in its early stages but we welcome later insight and feedback from the IRP on the outcomes to ensure its achieving learning for individuals and public satisfaction.

Comments from Avon & Somerset Police and Crime Commissioner Sue Mountstevens: I would like to thank both DC Thomson of the Counter Corruption Unit and Frances Taylor of the IOPC for their contribution to this quarters Panel. There is a significant amount of work ongoing both locally and nationally to tackle cases where police staff and officers have abused the powers afforded to them in their role and it is reassuring to hear how highly this is prioritised in Avon and Somerset and through the IOPC. The public must have trust and confidence in their police and this work demonstrates the robust approach undertaken to those whose actions undermine public trust. As always, thank you to our valuable panel members for their views.

Sue Mountstevens