

## **Complaints reform 2019**

### **Business case**

#### **Context**

The Policing and Crime Act 2017 has resulted in the most significant change to the police complaints system in the era of Police and Crime Commissioners. Anecdotally, there has been public concern about the level of independence and oversight of complaints against the police, with many people believing that the current system sees the police 'policing' themselves and is therefore unfairly balanced against the public. There is also concern that, while one of the principles of Police and Crime Commissioners is to hold the police to account, they lack the mechanisms to take action in individual cases.

The measures in the Act seek to address these concerns, providing Police and Crime Commissioners with the levers to seek improvement in local performance and public confidence. Three options are available to Police and Crime Commissioners to deliver this reform locally, and this paper evaluates all options as they would apply to Hampshire.

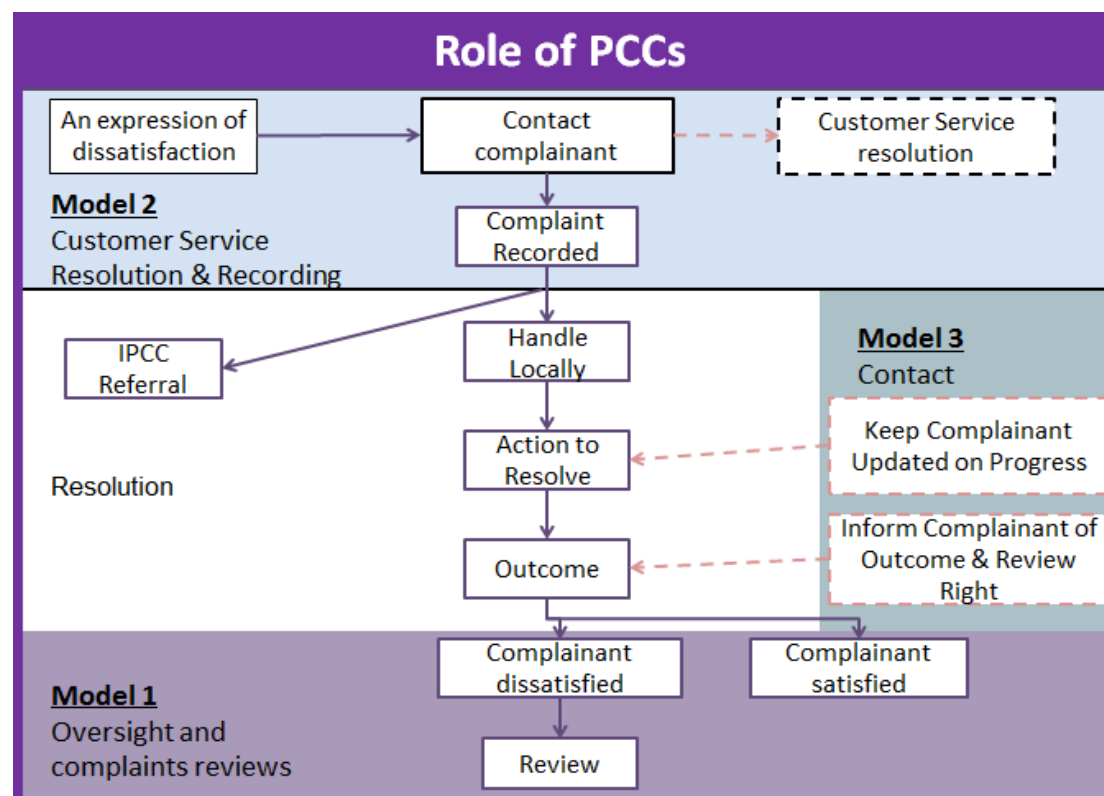
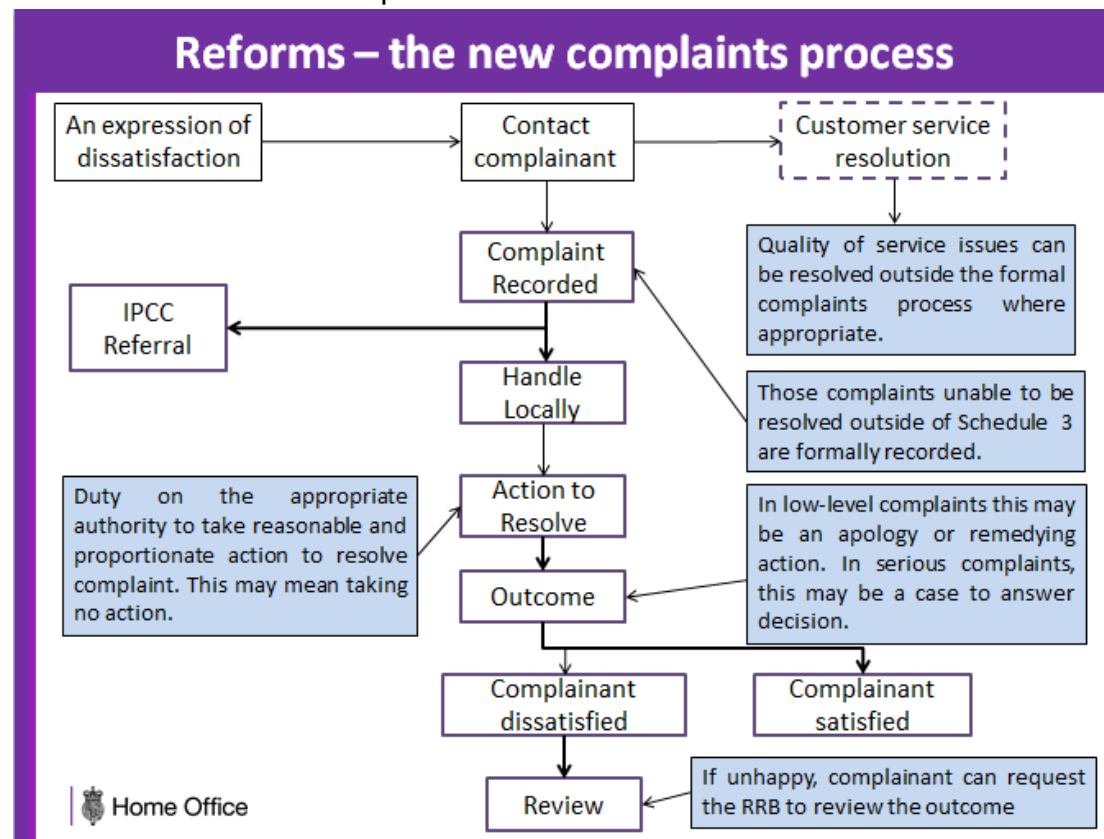
There is not a 'do nothing' option available as a result of this legislative change. All Police and Crime Commissioners are required to adopt one of the three models. Model 1, the 'oversight and review' model, is the compulsory option, and sees Police and Crime Commissioners becoming a formal part of the system to deal with complaints against all officers and staff of the Constabulary. They will take on the function of Independent Appeals Officer, a role currently carried out by the police force where matters are not deemed serious enough under the legislation to be referred to the Independent Office of Police Conduct for review. By having sight of all reviews, it will allow Police and Crime Commissioners to have more effective oversight and scrutiny of the actions of the force, and provide increased public confidence in the system.

There is also the option to transfer further functions from the force to the Police and Crime Commissioner. Model 2, the 'Customer Service Resolution and Recording' model, sees the Police and Crime Commissioner becoming the first point of contact for people wishing to make a complaint about operational policing matters, a function currently carried out by the Professional Standards Department and the Resolution Centre. Model 3, the 'Contact' model, goes a step further and sees the Police and Crime Commissioner also being responsible for keeping complainants updated and providing the final outcome.

These are not the only changes to the police complaints system however. The whole system has been updated, from how complaints are recorded, to how they are handled, and the responsibilities of the various bodies involved. Police and Crime Commissioners will also have an explicit statutory duty to hold the Chief Constable to account for complaints matters, requiring a more in depth focus and analysis of the information provided by the force, and of the processes and outcomes.

## Government proposals

These slides from the Home Office provide a simplified illustration of the new streamlined complaints process and the three models Police and Crime Commissioners could adopt.



**(IPCC is now the Independent Office of Police Conduct)**  
**Current practice and volume**

The most common route for complaints to arrive within Hampshire Constabulary is via telephone into the Contact Management Centre or via email, either to the Postmaster mailbox or directly to the Professional Standards Department.

In an effort to improve service recovery and customer service, the resolution centre is currently tasked to deal with low level complaints. These are described as expressions of dissatisfaction which would be disproportionate to respond to through a formal complaints process.

Initial information is taken by Force Enquiry Centre (FEC) staff and allocated to the supervisor of the individual complained about through the V fire system. The purpose of such handling is that officers with operational policing experience can provide explanations to members of the public about why certain action has or has not been taken by the police. They can also take swift remedial action which may resolve the issue for the complainant quickly and effectively.

Callers can still request it is formally recorded, or the V fire process may fail to resolve the issue satisfactorily, at which point it goes to PSD and handled in accordance with complaints legislation (see below).

There is currently no requirement to record the number of expressions of dissatisfaction. However the V Fire system does allow for some preliminary data which shows that there are approximately 3000 cases of dissatisfaction a year or 250 per month.

At present a Sergeant within the Resolution Centre co-ordinates the V fire system to ensure that enquiries are being progressed by the supervisors. It is acknowledged that this process adds extra work for frontline supervisors when previously this was largely completed by three Sergeants in the Resolution Centre.

## Professional Standards Department

According to official statistics published by the Independent Office for Police Conduct, there has been a rise in the number of recorded cases and allegations in 2016/17 when compared to the previous year:

	2016/17	2017/18	Change	% change
Number of recorded cases	931	960	29	3
Number of recorded allegations	1,546	1,651	180	1

\*One complaint case can contain a number of allegations.

2017/18	Investigation		Local resolution		Withdrawn		Discontinued		Disapplied		Total
	N	%	N	%	N	%	N	%	N	%	N
Means by which allegations were finalised	907	52.6	668	38.7	130	7.5	3	0.2	18	1	1,726

Historically, when compared to other forces, Hampshire is an outlier for the high number of cases it handled by local investigation when compared to local resolution. This was not of significant concern to the IOPC as Hampshire has a lower than average number of appeals upheld, signifying that the quality of the original investigation is high. However, the IOPC has encouraged a greater number of complaints to be resolved by local resolution. This approach should lead to a higher level of public satisfaction as the complainant is actively involved in determining what would be an acceptable outcome to them, rather than simply being in receipt of a report containing the judgement of the investigating officer.

2017/18	Local resolution	Local investigation
<b>Av number of days taken to finalise allegations</b>	78 (MSF 68)	143 (MSF 156)

(MSF = Most Similar Force)

## Appeals information

The role of the Independent Appeals Officer is carried out by a Detective Chief Inspector within the Professional Standards Department. Current legislation requires the Independent Appeals Officer to be of at least Chief Inspector rank or police staff member who is of at least a similar level of seniority.

The current Independent Appeals Officer combines this function with other duties within the management of the Professional Standards Department. They are supported in their appeals function by a police staff member in a research/file collation/administrative role.

2017/18	Local investigations		Local resolution		Disapplication		Total
	N	%	N	%	N	%	N
Number of appeals received	61	56	46	42	3	2	109

Local investigation			Local resolution			Disapplication			Total appeals		
Valid appeals	Upheld	Upheld %	Valid appeals	Upheld	Upheld %	Valid appeals	Upheld	Upheld %	Valid appeals	Upheld	Upheld %
68	8	12	38	3	0.8	3	0	0	109	11	10

In some cases, the right of appeal for complainants is to the Independent Office of Police Conduct (IOPC).

2017/18	Investigation appeals		Local resolution appeals		Non-recording appeals	
	N	%	N	%	N	%
Appeals received by IOPC	25	42	1	2	33	56

Investigation appeals			Local resolution appeals			Non-recording appeals			Total appeals		
Valid appeals	Upheld	Upheld %	Valid appeals	Upheld	Upheld %	Valid appeals	Upheld	Upheld %	Valid appeals	Upheld	Upheld %
26	9	35	2	2	100	37	7	19	65	18	28

## **Overview of proposals**

### **Model 1**

The Oversight and Complaints Review model is the minimum requirement for all PCC offices to adopt. This will result in PCC offices taking on the current function of Independent Appeals Officer, currently carried out by the force for 'lower level' matters where the right of appeal is not to the Independent Office of Police Conduct.

The terminology will change upon transfer to the PCC's office, in that complainants will have a right of review rather than right of appeal. The PCC's office will consider whether the complaint was handled correctly and proportionately, whether the outcome was appropriate, and make recommendations to the Constabulary if action is required to rectify any shortcomings.

It is important to note that the PCC's office has no power to direct that remedial action takes place, as the Chief Constable retains operational control. There is the possibility that an officer could refuse to take the action requested, which could lead to reputational issues for the PCC's office (in terms of looking ineffective/weak) and a potential disagreement with PSD staff and/or the Chief Constable. A working protocol is therefore recommended to address possible outcomes, based upon any national guidance issued.

#### *Staffing impact*

Existing regulations specify that the chief officer can delegate the appeal body responsibilities to a police officer of at least the rank of chief inspector or police staff member who is of at least a similar level of seniority. It is unknown whether PCC offices will be bound by the same requirements, but given the level of responsibility and the equivalent decision making in the force, it will be further considered whether anyone making decisions on appeals would need to be at least an OPCC grade H or I.

All existing complaints-related functions of the PCC are currently handled by the Head of Governance and Policy, with no capacity to take on the additional functions that will be transferred to the PCC office.

As the existing Independent Appeals Officer is a serving police officer, the option to TUPE that individual into the PCC office does not exist. Further consideration will therefore be given to the need for a new position of 'Head of Compliance' to assume responsibility for all current and future statutory responsibilities of the PCC in respect of the complaints system (together with other functions within the OPCC). This may be achieved by reviewing the role profile for the Head of Governance and Policy, as a permanent appointment has not been made to this position. Further proposals will be brought forward to the appropriate decision maker in due course.

Specific administrative support for this level of case file management may also be required. There is no capacity within the existing corporate support officers to take this on, and the sensitivity of the work lends itself to requiring dedicated support rather than drawing from a pool arrangements.

Discussions will be required with the Chief Finance Officers to the PCC and Chief Constable to identify how this will be financed and factored into the PCC revenue budget for future years.

#### *Estates impact*

As this proposal sees the increase in PCC headcount of one, this can be accommodated within the existing PCC building in St George's Chambers.

#### *IT impact*

The police complaints management system is called 'Centurion' and is used by all but two police forces in the UK. It also enables quarterly data returns to be made to the Independent Office of Police Conduct.

In anticipation of PCC offices taking on the review function, the company that owns Centurion is developing a bolt-on to its system to allow PCC offices to access complaint files without them needing to be downloaded and transferred to PCC offices through other channels. As this is a requirement for all force/PCC areas, there may be scope for a national negotiation to ensure best value can be achieved for this upgrade and licence costs.

#### ***Oversight function***

In addition to the review function for individual cases, PCCs will be required to hold the Chief Constable to account for the effective functioning of the complaints system, the policy intent being to achieve this to a greater degree than currently in place.

Within the Hampshire PCC office, there is currently a 'light touch' approach to complaints oversight and scrutiny. Ad hoc dip sampling of individual cases takes place by the Acting Head of Governance and Policy, this is unstructured and is driven by public requests. Monthly meetings take place between the Head of PSD and the Acting Head of Governance and Policy to receive reports on serious misconduct cases and ongoing IOPC investigations, while performance information is discussed at the quarterly meeting between the IOPC and PSD, which also includes the Acting Head of Governance and Policy for the PCC's office.

Monitoring of performance data from PSD is not part of the core work of the PCC Performance and Information team. One proposal is that future scrutiny is led by this team as part of their wider programme of activity, informed by information provided by the Head of Compliance. Included in this may be responsibility for supplying requested information to the IOPC as part of the quarterly returns process. The cost and other implications of this will be further explored before a final decision is taken.

There are also opportunities to engage the general public in the scrutiny of the complaints system, building on models trialled in other parts of the country. Such models include forming a panel made up of independent members to dip sample individual case files relating to a particular theme, whereas others widen the scope of the force ethics set-up to become a joint committee that also covers the performance of PSD.

While the enactment of the legislative changes have been pushed back by the Government, the oversight function is one aspect that could be enhanced at an earlier stage under current legislation.

## **Model 2**

The Customer Service Resolution and Recording model will incorporate Model 1, but have the additional elements of receiving complaints, contacting complainants, and either recording the matter formally or attempting to immediately resolve the issue for the complainant. This is known informally as the 'Northumbria model', as it was the Northumbria PCC office who set up this approach to deal with a poor performing PSD and restore public confidence.

This model would give the PCC's office a complete oversight of any dissatisfaction, allowing a greater focus on key issues and potentially a greater ability to hold the Chief Constable to account.

Adopting this model would transfer the responsibility for immediately resolving low level complaints from the force Resolution Centre and line managers to the PCC's office.

One advantage of this approach is that it would increase public confidence in the complaints system, as it would address the concern about the police policing themselves. The counter argument is that a false impression is being provided to the public as, if they require the complaint to be formally recorded, it would still be handed to PSD to investigate.

A disadvantage of this approach is that, if administered by the PCC's office, it would create a more bureaucratic approach as staff would be required to take details, seek an explanation from the force and feed this back to the complainant. This is in effect a duplication of effort to resolve a matter that, following the principles of good customer service in any organisation, should be resolved directly by the organisation being complained against.

To counter this, recruitment and training of new staff will be critical to ensure as many complaints can be resolved at the first point of contact or within a swift timeframe by way of explanation about police practices. Such an approach would require access to police systems that are currently not available to PCC staff. Eg. RMS.

### *Staffing impact*

Due to there being only anecdotal evidence available regarding the current volume of dissatisfaction, further work would be required to explore whether there would be a business case for the PCC to adopt this model.

Based on the set-up of the Northumbria model, which is broadly similar in terms of the number of allegations recorded per 1,000 employees in 2016/17, it is estimated the PCC would require an additional three staff members to manage the informal resolution and recording process (one manager and two staff members). This is in addition to the manager identified in Model 1.

As staff within the Resolution Centre are police officers and complete the informal resolution function as part of their wider role, it is not possible to transfer staff to the PCC office.

If Model 2 was favoured, a detailed work study would need to be carried out with the PSD admin team to identify how much of the existing work would be transferred to the PCC office, and if a Statutory Transfer of staff would apply in this situation. Legal and HR support would be required. As with Model 1, discussions will be required with the Chief Finance Officers to the PCC and Chief Constable to identify how this would be financed, whether a proportion of the existing budget would be transferred from the force to the PCC to accommodate this, or if the PCC revenue budget would need to increase as a result.

### *Estates impact*

Based on feedback from the Resolution Centre and the Northumbria team, the optimum set-up for a triage team would be a separate area of an existing office, allowing phone calls to be made with minimal interruptions and background noise. There is capacity to accommodate four additional staff members at the PCC offices in Winchester. Minor building alterations would be required to create an optimum working environment, such as sound barriers. This is likely to result in the loss of one meeting room.

### *IT impact*

PCC staff would require access to Centurion to enable formal complaints to be logged and allocated to investigators. The telephone set-up at St George's Chambers may also require upgrading to enable calls to be routinely recorded for monitoring and training purposes.

### **Model 3**

The Contact model will incorporate Models 1 and 2, and also give the PCC's office the responsibility for keeping the complainant updated through the complaints process, and providing the outcome letter.

In respect of this model, the PCC's office may suffer from the same public perception issues as exists for the police service at present, in that it would become the body responsible for receiving the complaint, keeping the complainant updated, providing them with the outcome and then being responsible for the review. This could give rise to the public belief the appeal process was not independent or fair.

This model would give the PCC an oversight of all dissatisfaction being raised, and consequently a greater knowledge base from which to hold the Chief Constable to account for the complaints system. It would provide a greater level of interaction with the public and understanding of individuals' concerns, potentially increasing the PCC's profile. There would also be a potential opportunity for an improvement in the service recovery process, ensuring complainants are updated more regularly than at present by Hampshire Constabulary.

The drawback to this model is that the PCC's office would have to administer an operational process over which it has no control. In respect of regular updates to complainants, this can only be done if investigators, who will remain under the direction and control of the Chief Constable, keep the complaint log up to date. The risk is that it is not updated, thereby meaning complainants will not be kept updated, which will be perceived as poor service delivery by the PCC's office, not the force. The impact of this could be more complaints, this time against the PCC's office or the PCC personally, and friction between the PCC's office and Constabulary.

#### *Staffing impact*

Model 3 would require an additional four members of staff. This would be in addition to the one staff member identified in model 1 and three staff members identified for model 2. This brings the total staffing establishment increase to eight.

The assumptions for this staffing proposal is as follows:

A single staff member will make 3,000 customer 'contacts' a year (15 contacts per day x 5 days x 40 weeks). A contact is described as making or receiving a phone call or email to the complainant. This does not include any chasing requirement by the staff member to obtain an update if it has not been provided by the investigator.

Based on the existing average time to handle local resolution cases, there would be a minimal of four contacts per case. For local investigation cases, this rises to seven contacts per case.

Using the number of complaints for 2016/17 (931) as a baseline, this would result in approximately 9,000 contacts. This factors in research from the IOPC's own customer contact model that suggests every contact received an average of 1.7 'comebacks' per update/outcome given. This would result in three staff members being required. A team leader/manager would also be required for the team to deal with any complex decisions and to carry out line management functions.

As with Models 1 and 2, discussions will be required with the Chief Finance Officers to the PCC and Chief Constable to identify how this will be financed, whether a proportion of the existing budget would be transferred from the force to the PCC to accommodate this, or if the PCC revenue budget will need to increase as a result.

#### *Estates impact*

With this model, space would be required to accommodate both the triage team and the customer contact team. This translates to an area for call-handling and a separate area for case management. Due to the increased volume of sensitive paperwork relating to casework, consideration should be given to a restricted access room, mirroring the current accommodation provided for PSD in Mottisfont Court.

Based on feedback from the Resolution Centre and the Northumbria team, the optimum set-up for a triage team would be a separate area of an existing office, allowing phone calls to be made with minimal interruptions and background noise. There is capacity to accommodate four additional staff members at the PCC offices in Winchester. Minor building alterations would be required to create an optimum working environment, such as sound barriers. This is likely to result in the loss of one meeting room, most probably the Innovation Space.

#### *IT impact*

As for all models, PCC staff would require access to Centurion to enable formal complaints to be logged and allocated to investigators. The telephone set-up at St George's Chambers may also require upgrading to enable calls to be routinely recorded for monitoring and training purposes.

### **Evaluation of proposals and recommendations**

Model 1 is the minimum level of change that is required as a result of this legislative change. The consideration therefore is whether the priorities in the Police and Crime Plan will be achieved by adopting model 2 or model 3.

One of the PCC priorities is to enable effective and efficient operational policing which meets the needs of the people it serves. Most relevant in this

case is that the intent of the PCC is to do this by empowering the Chief Constable.

It is best practice in customer service for dissatisfied people to be able to raise complaints directly with the organisation in question, giving the business the opportunity to correct anything that may have gone wrong and to apologise themselves for any distress caused as a result. Adopting model 2 or 3 would not empower Hampshire Constabulary to do this in a timely manner and have the opportunity to restore public confidence itself.

The financial and staffing impact of each model is an important consideration, taking into account the financial pressures on Hampshire Constabulary as a result of an unfair funding formula when compared to other forces. The impact of model 2 and 3 would be an increase in headcount within the PCC's office, which may not be achievable through Statutory Transfer of staff because existing staff carry out other functions that will not be transferred. It is also likely to see a decrease in the revenue budget for the Constabulary, which may impact on functions beyond those within the scope of these models.

The above factors should be balanced against the impact on public confidence in police and the complaints system, which was the intent of the Government when introducing this new legislation. An important point to remember is that the complaint investigation function cannot be transferred to the PCC office under any model. These options therefore only focus on interaction with complainants. It is also important to remember that the mandatory Model 1 provides for a greater oversight function, which will allow the PCC to better hold the Chief Constable to account for the complaints system.

It appears to be the case that in the vast majority of situations, evidenced by the number of cases compared with the number of appeals, complainants are content with the complaint being handled by Hampshire Constabulary. Coupled with evidence obtained as part of the existing departmental monitoring processes and feedback from external partners, there is no suggestion that this function within Hampshire Constabulary is poor performing.

The recommendation therefore is to adopt model 1 and review on a regular basis, through the improved oversight and scrutiny set-up, whether it is appropriate at that time to move to model 2 or 3 in the future.