

STRATEGIC POLICING AND CRIME BOARD

Tuesday 22nd November 2022

Complaints and Reviews

Purpose of paper

1. This report provides an update on the work to undertake reviews of complaints against West Midlands Police.

Background

2. The police complaints system is the mechanism by which the public may raise their concerns about the service they receive from the police force. The process was updated by the Policing and Crime Act 2017, and the Police (Complaints and Misconduct) Regulations 2020. The new complaints system broadened the definition of a complaint which previously had been restricted to the conduct of a specific officer, and introduced a new duty for police and crime commissioners to undertake reviews (previously called appeals).
3. This is the second annual report on complaints and reviews work undertaken by the PCC since the inception of the new Regulations.
4. Police and Crime Commissioners have statutory responsibility for:
 - the local oversight of complaint handling, which is the 'holding to account' function;
 - acting as an independent Review Body for some complaints that have been made through the formal complaints system (these are the complaints which do not have any indication of criminal activity or possible misconduct)
 - dealing with complaints made against the Chief Constable, a role known as the Appropriate Authority.
5. There are a number of ways in which we maintain oversight of police professional standards. We have an annual report to SPCB (November), and the Commissioner has

quarterly meetings with the Head of PSD. In addition, staff meet quarterly with the IOPC Oversight Manager who is able to provide advice and updates on work of the Force as well as our own work on reviews. The IOPC publishes annual performance data which provides a useful benchmark.

6. There is also an expectation that PCCs achieve oversight of the complaints function as a result of the knowledge and insights gained during the complaints review process, and use this oversight as a lever to positively influence the complaints system. In practice this means that some of our response to complaints reviews is communicated to PSD as 'oversight' rather than as a formal response to a complaints review. Oversight ranges from strategic matters through to details concerning individual complaints. Oversight normally relates to PSD or WMP performance but can also oversight matters related to individual complaints.

Complaints Reviews

7. In February 2020 the complaints reviews for Warwickshire and the West Midlands were managed jointly by our Complaints Review Manager (CRM). The arrangement was successful but in March 2022 Warwickshire decided to take their function in-house, in order to give their PCC greater involvement and oversight of their PSD. The timing of this change was fortunate for us in that the number of West Midlands reviews climbed steeply this year, and now constitutes a full-time role for the CRM.
8. The reviewer's role is not to reinvestigate the case, but instead it is to make an assessment as to the handling of the complaint and whether it has been managed in a reasonable and proportionate manner. Following the completion of a review there is no further right of appeal. If the complainant remains dissatisfied the only option remaining would be to pursue civil proceedings or a judicial review application. Some people remain dissatisfied after their review is completed and a small number of these people have sent 'letters before action' indicating that they intend to pursue civil litigation. We have received 4 letters before action following completed reviews in 2021-2022, although none of those have in fact resulted in any legal proceedings taking place.
9. The number of reviews has steadily increased since the new regulations were introduced. In 2020-2021 we received 62 requests. In 2021-2022 we received 124 requests, and in the first six months of this financial year we have already received 88 requests. Increased numbers were expected as the new system bedded in, and we have also seen an increase as PSD has successfully and quickly reduced its backlog of complaints waiting

to be dealt with. This created a surge in the number of reviews (up to 30 in April 2022), but as the backlog of complaints in PSD has now gone, we are beginning to see the number of reviews plateauing. We aim to complete reviews within 20 working days. During the surge in review numbers the average response time increased but we hope to reduce this again now that numbers are reducing slightly.

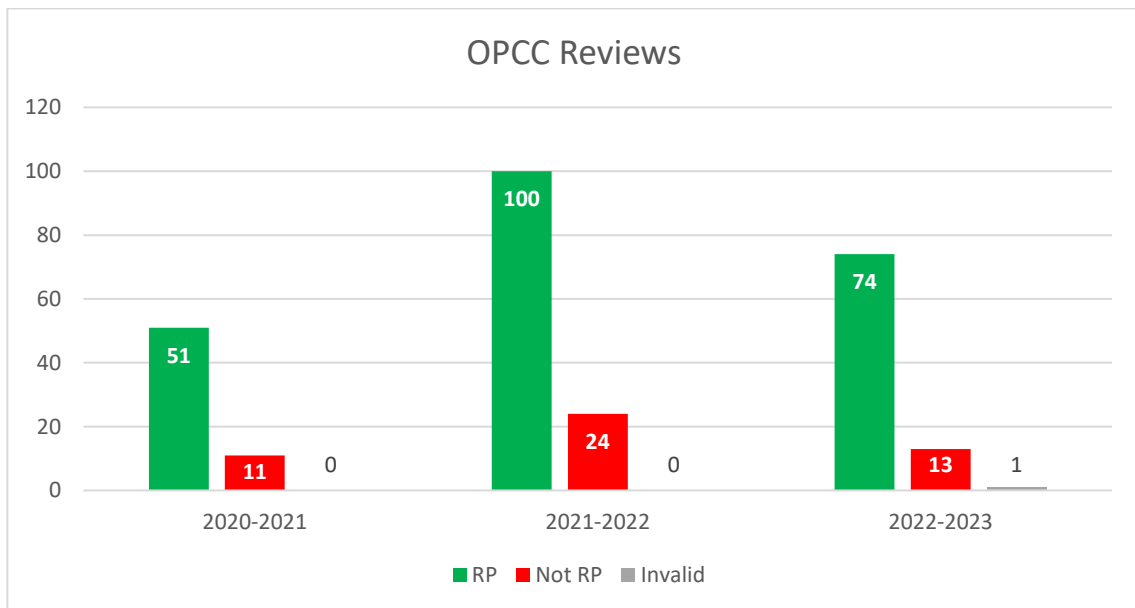
Performance Information

10. The next sections of this report are dedicated to performance and cover the following:

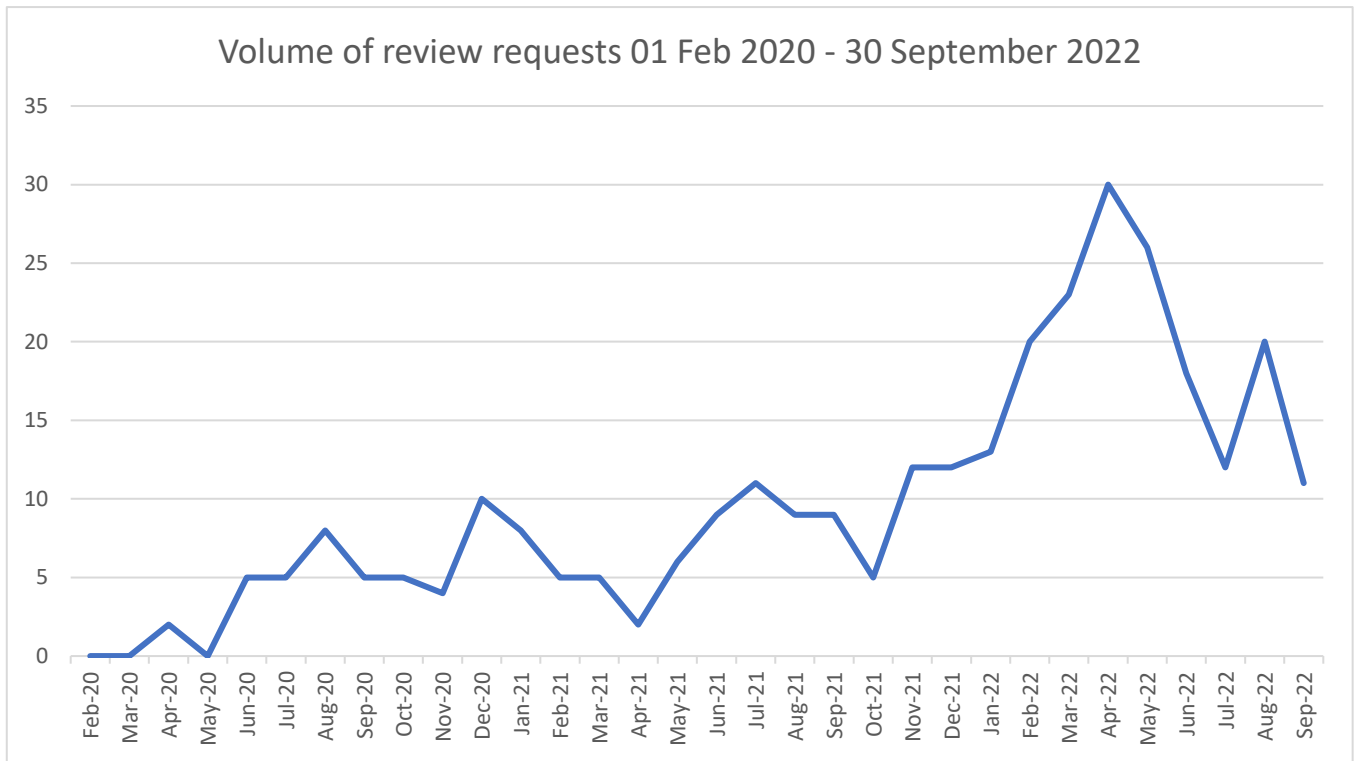
- Volume of reviews received
- Time taken to complete reviews
- Outcomes of reviews
- Themes of complaints subject to review

Volume of reviews received

11. The below chart displays the total volume of reviews received across 3 financial years and details decisions made on these reviews. reasonable and proportionate (RP), not reasonable and proportionate (not RP) and invalid.



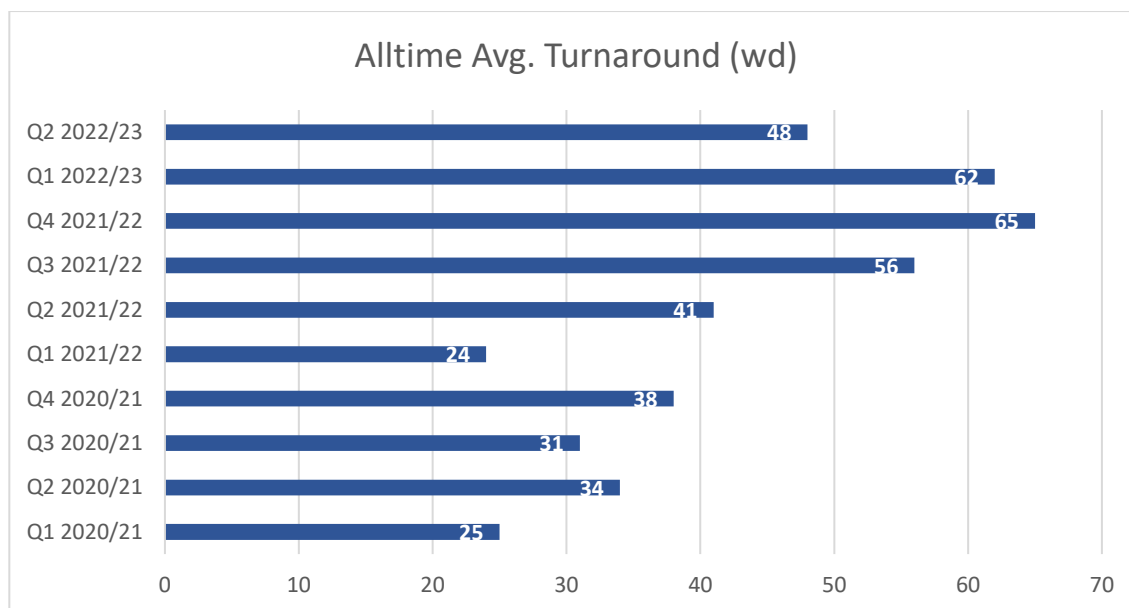
A month by month breakdown can be viewed below.



Review requests remained low between February 2020 and January 2022. However, as indicated above, they began to sharply increase in February 2022. This is primarily due to PSD’s efforts in clearing their complaint backlog. As complaints were being rapidly resolved, more complainants were able to request a review. Requests for review have begun to stabilise, but still remain marginally higher than previous levels.

Time taken to complete reviews

12. The below chart displays the average turnaround time for reviews received in a specified quarter over a three-year period, broken down by quarter.



13. The time taken to complete a review has risen alongside the overall number of reviews, but we are seeing average review turnaround times start to gradually reduce, as overall demand reduces.

14. IOPC data shows that Most Similar Force (MSF) turnaround time for this reporting period ranges from 30 to 37 working days.

Outcomes of Reviews

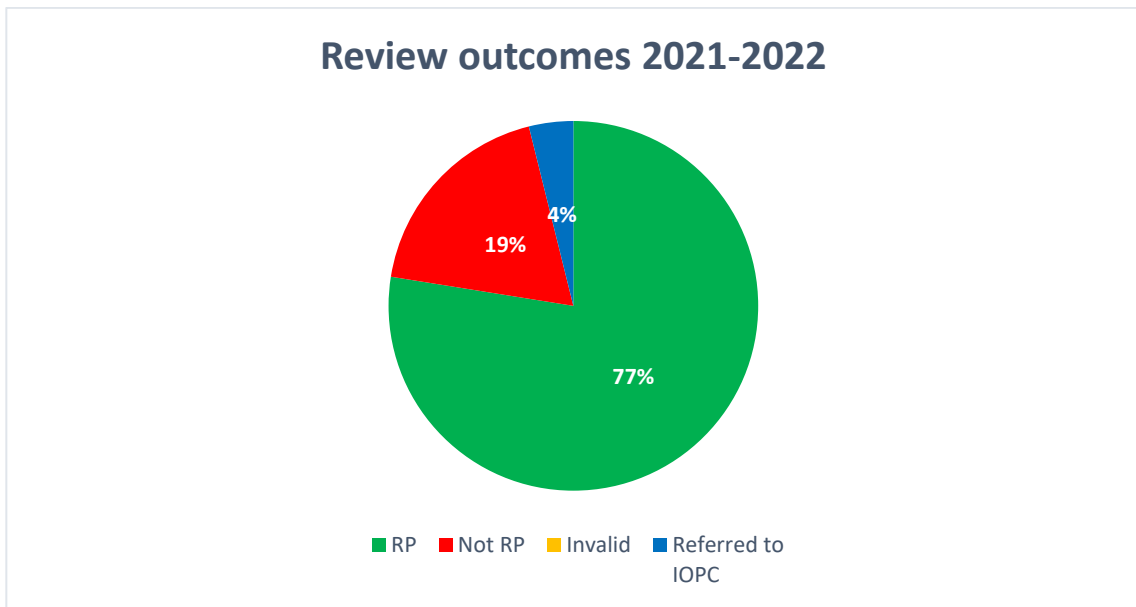
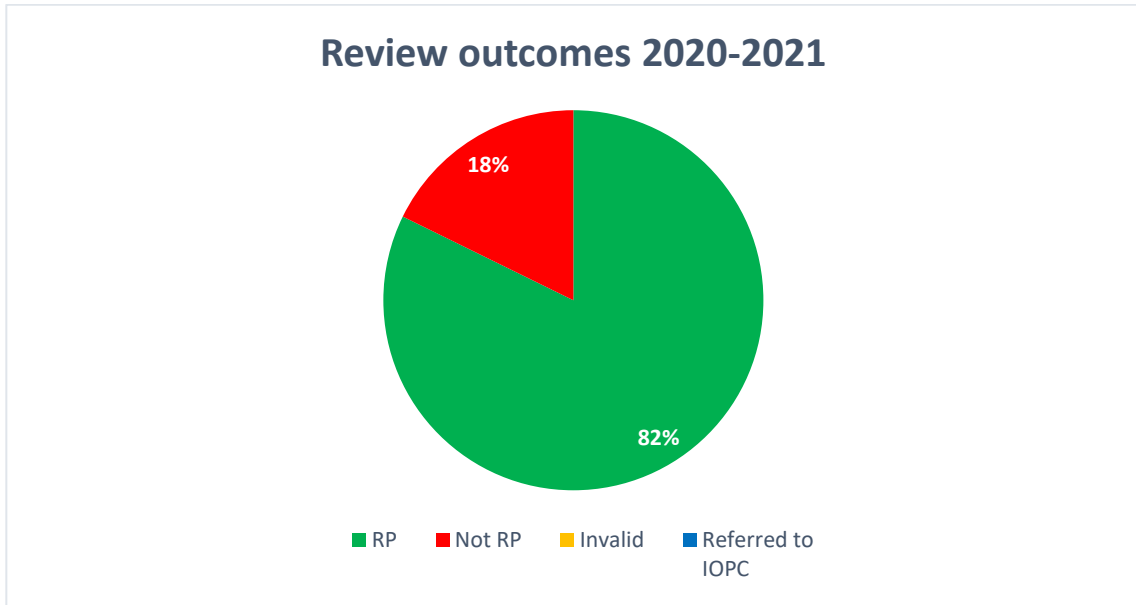
15. There are a number of possible outcomes set out in the Complaints Regulations.

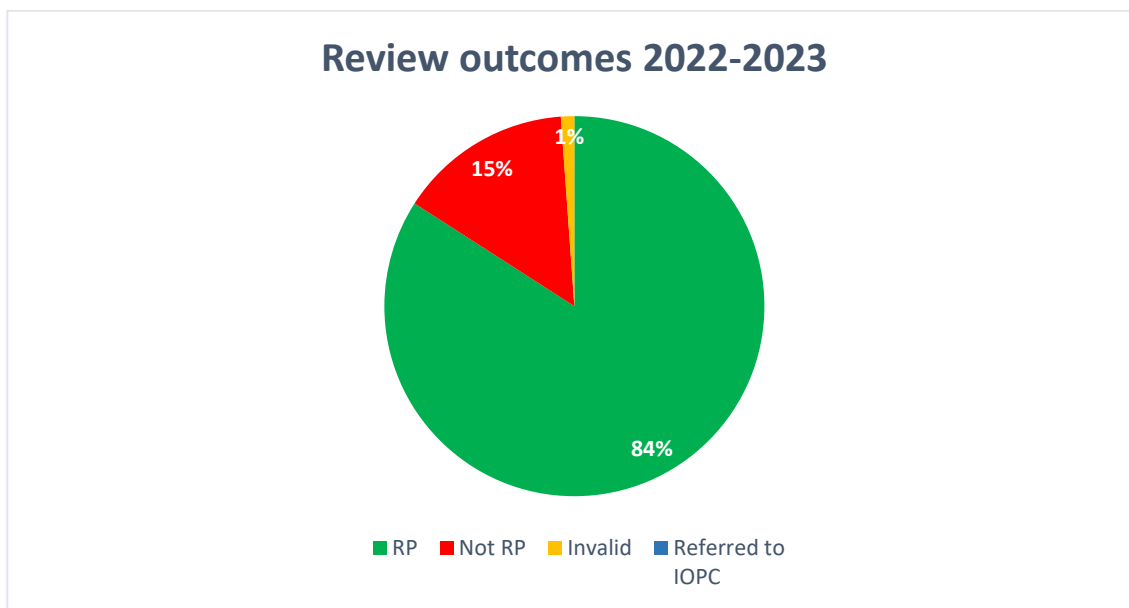
Possible outcomes can be summarised as:

- Complaint handling was reasonable and proportionate, so the review is not upheld
- Review request is not valid
- Complaint handling was not reasonable and proportionate, in which case the following outcomes may be applied:
 - recommend that the appropriate authority refer the complaint to the IOPC
 - recommend that the appropriate authority investigate/reinvestigate the complaint
 - make a recommendation/s. Recommendations can be made with a view to remedying the dissatisfaction of a complainant (paragraph 28ZA, Schedule 3, Police Reform Act 2002, or in complaints which have been investigated, recommendations may relate to a person serving with the police (e.g. that the person has a case to answer in respect of misconduct or gross misconduct; or that their performance is not satisfactory).

- Recommend that the matter be referred to the Crown Prosecution Service.

The below charts show the outcomes of reviews broken down into three separate financial years:





16. These charts demonstrate that the proportion of total reviews where the complaint handling was found to be reasonable and proportionate has increased over the past year.

17. The recommendations made to the Force can be broken down as follows:

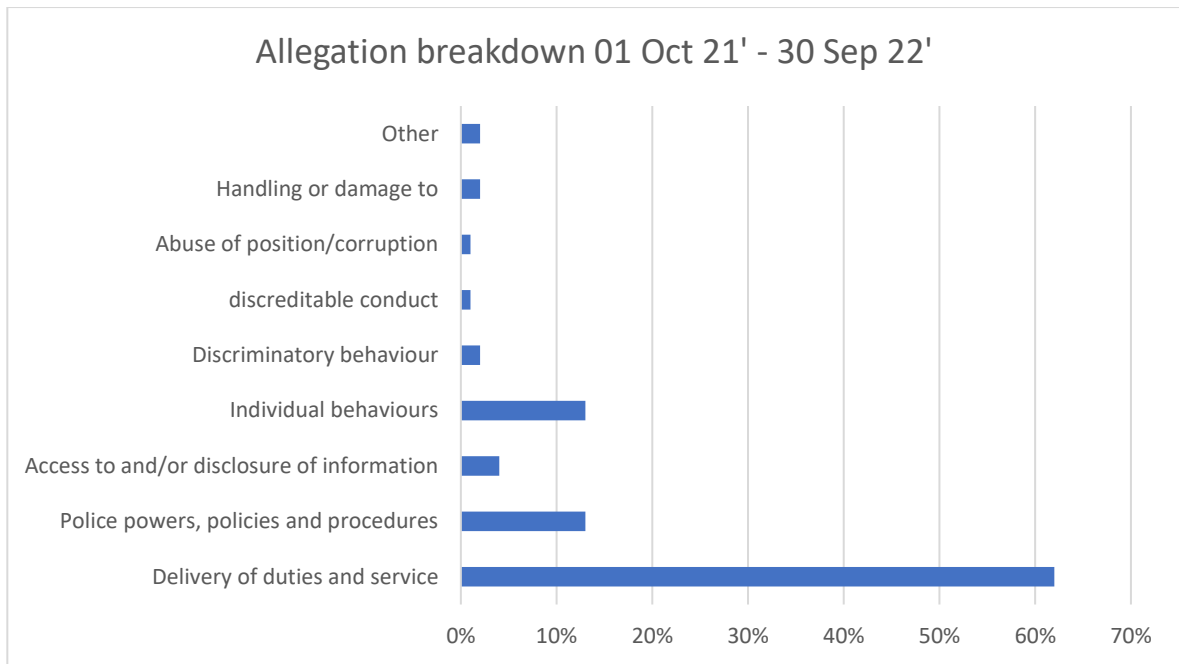
Financial Year	Number of recommendations made	Number of recommendations refused
2020-2021	18	0
2021-2022	62	0
2022-2023	16	6

18. We are developing a new process to monitor Force response to recommendations and how any learning becomes embedded, and this will include regular reporting to the quarterly meetings between the Commissioner and Head of PSD.

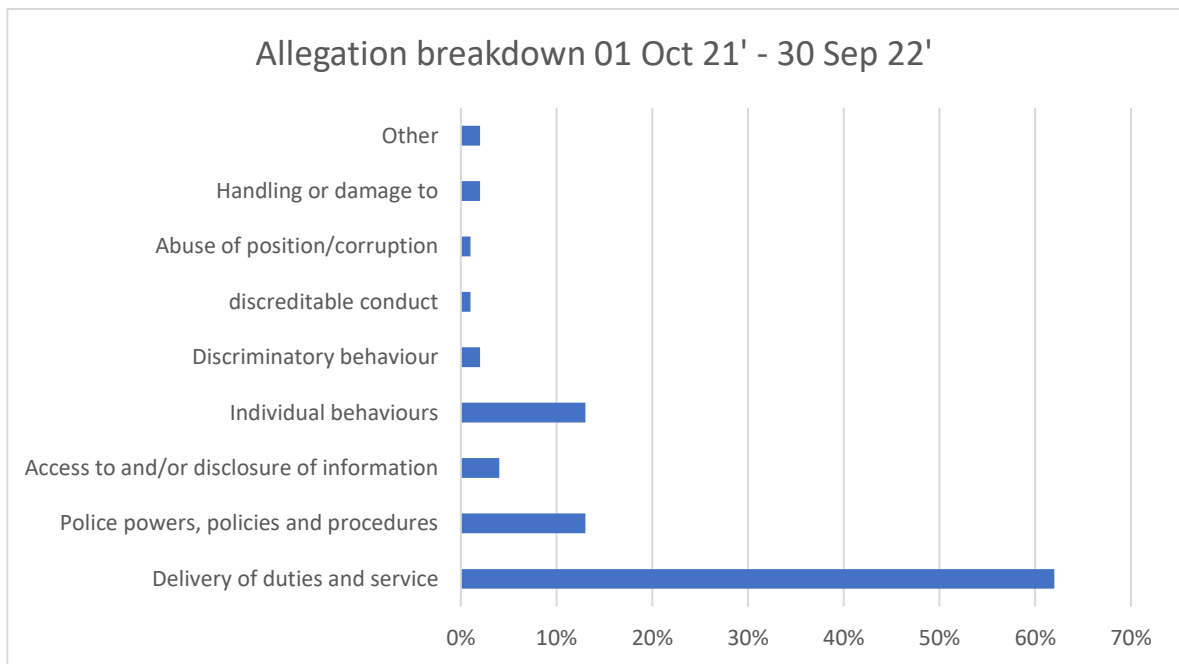
19. Recommendations made are detailed and very specific to the subject of the complaint and so difficult to identify any particular trends.

Themes of complaints subject to review

Below is a breakdown of the themes of the allegations in complaints that have been reviewed by the OPCC:



A comparison can be made to the same reporting period for the previous year below.



The above two tables show that the most common category of reviewed complaints is Delivery of Duties and Service, followed by Individual Behaviours and Police Powers, Policies and Procedures. We have seen the number of requests for reviews of complaints about discriminatory behaviour reduce from 8% to 2% of the total number of reviews requested.

Observations and future developments

20. A robust complaint review function requires a strong and cooperative working relationship between the complaint reviewer and PSD. The facility to speak regularly and openly with complaints investigators/decision-makers in order to properly understand the background to complaints, and the ability to discuss recommendations and understand their impact and feasibility is critical to a successful process. This year we have seen an increase in the number of recommendations being rejected by PSD, and in order to fully understand this, an analysis of all future recommendations will be conducted.
21. A Complaints Hub has been added to the website this year, which includes information for complainants and performance information. The Hub signposts and provides easy access to the correct part of the complaints system. We plan to develop the Hub further over the coming months by adding more performance information.
22. A national training day for complaints review staff is taking place on 1 December and we are hosting the event in Birmingham.
23. The IOPC publishes quarterly complaints bulletins including data on complaints reviews. We have noticed that the information related to West Midlands complaints reviews is inaccurate, and does not reflect the volume of work we are doing. We are working closely with the IOPC to rectify this in time for future bulletins.
24. The Force has successfully reduced its backlog of complaints, and this focus upon expediency is clearly to the benefit of complainants. The challenge during a complaint process is to ensure and to be confident that the complaint was dealt with in a reasonable and proportionate manner, and provided a high-quality response, at the same time as hitting the targets for timeliness.
25. One of the challenges when undertaking a review is assessing what constitutes 'reasonable and proportionate'. During our reviews we always take the stance that we are assessing what is likely to be the view of the public on what is reasonable and proportionate in response to that complaint.
26. The number of reviews undertaken by West Midlands remains low in comparison with other PCCs covering other large police forces. The reason for this is not entirely clear and we are working with the IOPC to explore this further. We will monitor this closely over the coming months to ensure that our staff resource remains sufficient to meet demand.

Dip Sampling

27. We have undertaken two dip sampling exercises this year. The first was on 23 November and 8 December, and looked at 39 completed complaints about Discrimination.
28. In the majority of these cases, dip samplers felt that the complaint had been fully understood and that police had undertaken all reasonable lines of enquiry. There were some concerns however that in a significant number of the dip sampled cases the outcome was not communicated in an empathetic way, and also that the complaint handler could have done more to explore why the complainant felt discriminated against. This feedback was shared with PSD. A new style of letters has been implemented, and complaints handlers now make early calls to complainants to try and understand the matter.
29. The second dip sampling exercise took place on 12 and 15 July 2022 and looked at 49 complaints about police investigations. During this exercise similar findings to the first exercise were noted - dip samplers felt that some of the responses to complainants lacked empathy, and some did not properly explain the proportionate investigations policy, and therefore lacked detail.
30. SPCB members had a detailed brief and discussion about the dip sampling exercises during the SPCB Group meeting in October.
31. The next dip sample is planned for 24-26 January 2023 and is likely to focus upon complaints about incivility.

Pension Forfeiture

32. In the very small number of cases where police officers are convicted of serious criminal offences, and their offending was carried out in connection with their role as a police officer, the Commissioner has the power to forfeit part of their police pension. In 2021 there was one forfeiture, and in 2022 there has also been one forfeiture decision with one further decision currently pending.

Financial Implications

33. The staff costs associated with the complaints review function are contained within the budget of the Police and Crime Commissioner.

Legal Implications

34. The framework for managing police complaints and reviews is heavily regulated, and is contained in the Police Reform Act 2002, and the Police (Complaints and Misconduct) Regulations 2020.

Equality Implications

35. The oversight and scrutiny function related to complaints and professional standards will consider how effective the Force is in delivering a complaints process which is equality driven. To assist with this, the first round of dip sampling will focus solely on complaints of discrimination. The Police and Crime Plan includes a commitment to advancing equality, diversity and inclusion, and this is reflected in our oversight work.

Next Steps

36. The board is asked to note the contents of this report.