

DMPC Decision – PCD 626

Title: Oversight of public complaints in the Metropolitan Police Service

Executive Summary:

The Policing and Crime Act 2017 amends the relevant sections of the Police Reform Act 2002 and allows local policing bodies to choose to go beyond the mandated level of direct responsibility for various statutory responsibilities in the management of public complaints currently performed by police forces.

This decision paper explains the model of oversight for complaints when the statutory changes come into force on 1st February 2020. Police and Crime Commissioners (PCCs) will have a choice of three proposed governance models (with Model One being the mandated level) with the objective of improving transparency, accessibility and integrity evident in the management of public complaints. This paper also updates on the current arrangements for the management and oversight of public complaints and the collaborative work that is already underway in preparation for the key 3rd-phase of Home Office legislative reforms.

The Home Office confirmed on 10th January that the regulations were laid to enable a commencement date of 1st February 2020.

The complexity of the police complaints system and accompanying legislation is widely acknowledged. The broad aspiration of this phase of the Government reforms is to assign additional responsibilities to PCCs in order to introduce greater independence and scrutiny into the police complaints management framework. To deliver these additional responsibilities, MOPAC will recruit new members of staff, resulting in an increase in workforce headcount.

Recommendation:

The Deputy Mayor for Policing and Crime is recommended to:

- Adopt 'Model One' (the mandated level) of the proposed models for the future governance of police complaints under the Policing and Crime Act 2017.
- Ensure the associated changes are reflected within the MOPAC staffing budget 2020/21.
- Agree the delegation of powers in relation to the oversight of the handling of Complaints and delivery of Complaint reviews and note these changes will be reflected in the MOPAC Scheme of Delegation and Consent at the next formal review.

Deputy Mayor for Policing and Crime

I confirm I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with the Code of Conduct. Any such interests are recorded below.

The above request has my approval.

Signature

Ernie Under

Date

31/01/2020

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE DMPC

1. Introduction and background

- 1.1. The Policing and Crime Act 2017 (the Act) includes several provisions which will change the way that police complaints and disciplinary systems operate. The Mayor's Office for Policing and Crime (MOPAC) fully support these reforms and recognise the need to improve public confidence in the police complaints process.
- 1.2. The reforms are designed to develop a complaints system characterised by more independence, transparency and accountability. The Act gives Police and Crime Commissioners (PCCs), as *local policing bodies*, the option of taking-on core functions of the police complaint process. The Home Office have been clear that one of the core objectives behind these reforms is to introduce greater independence into the complaints process by assigning a more prominent role to PCCs.
- 1.3. 'Phase 3' of this programme of reforms, which incorporates most of the changes to the current legislation, has been subject to delay, however, the Home Office confirmed on 10th January that the regulations were laid and will commence on 1st February 2020.
- 1.4. The Government has set out 3 models of governance, Model One is mandatory, with Models Two and Three providing further options. Model One is the specific oversight of complaints and becoming the review body for force appeals currently heard by the Chief Constable. Model Two incorporates taking on responsibility for receiving and recording complaints. Model Three incorporates those functions under Model Two as well as assuming responsibility for keeping complainants updated on progress and for informing complainants of the outcome and their right of review. The decision over which of the three proposed models is important as it will determine which of the current functions in relation to the management of complaints will remain the responsibility of the Metropolitan Police Service (MPS), and which will transfer to MOPAC.
- 1.5. The Police and Crime Plan 2017 – 2021 sets out the following commitment:

"In accordance with the Policing and Crime Act 2017, we will develop an oversight framework that will enable the Deputy Mayor to fulfil the statutory responsibility to hold the Commissioner to account for the exercise of their functions in relation to the handling of police complaints. This is to ensure a greater degree of transparency and integrity in complaints management and, ultimately, to increase public confidence in the MPS to deal with complaints fairly and efficiently."

2. Issues for consideration

- 2.1** In terms of volume, the MPS record significantly more complaint cases than any other police force in England & Wales. However, the rate of complaints per officer are comparable with other forces. The 5,071 cases recorded in 2017/18 (Source: IOPC Police Complaints: Statistics for England and Wales 2017/18) represented 16% of the total number of recorded complaints. The 5,071 complaint cases included 12,607 separate allegations. The MPS are generally recording public complaints in a timely manner with 77% of all public complaints being recorded within 10 working days of receipt in 2017/18. Oversight from MOPAC has since seen the MPS increase this to 90% in 2018/19. The national average for all police forces in England & Wales was 84% during 2017/18, increasing to 89% in 2018/19. The MPS are also now bringing complaint cases to a swifter resolution. There was an 11% reduction in the average number of days taken to finalise complaint cases (not including suspension) from 2017/18-2018/19. (Source: IOPC Police Complaints Information Bulletin; Metropolitan Q4).
- 2.2** Complaints are received and assessed by the Complaints Support Team (CST) that form part of the Directorate of Professional Standards (DPS), which is part of the MPS. There are over ten to fifteen officers and staff currently engaged in managing the task of assessing complaints, making a formal recording decision and then determining who should be responsible for investigation of the complaint.
- 2.3** Given the volume of complaints received by the MPS taking-on the responsibility for the recording and 'triaging' of allegations (as required by Models Two and Three) would require a major increase in the number of employees working in MOPAC. It is not viewed appropriate at this stage for MOPAC to take on these responsibilities.
- 2.4** It is preferable to take on the mandated model (Model One) and then after approximately a year in operation, review the model and consider whether the business case exists to take on Model Two or Three.
- 2.5** Any appeals following the initial outcome of the complaint are also currently managed by the MPS DPS Team. This responsibility will transfer to MOPAC. It will be necessary to re-assign some of the budget currently allocated to the MPS to take on responsibility for managing force appeals (to be known as 'reviews') into the outcome of public complaints. This will be agreed during the 2020/21 budget process.
- 2.6** The MPS currently receives approximately 300 - 400 'force' appeals per annum, managed by a small dedicated team of officers within DPS. Given that uniformed officers undertake this task in the MPS, it is not possible for them to simply be transferred to MOPAC. The Home Office has indicated that they expect the volume of

appeals to increase, as the definition of a complaint is widening to include any expression of dissatisfaction (currently it is linked to an individual officer). However, it is challenging to anticipate the new demand and this will be constantly reviewed over the coming months.

- 2.7 The Home Office gave PCCs 6-months' notice of the intended go-live date for these legislative reforms on 30 July 2019. This was intended to enable forces and PCCs to implement their preferred governance frameworks and complete any associated recruitment or restructure activity. MOPAC has already started work to scope the necessary changes and is working closely with the MPS to ensure a smooth transition of responsibilities. The majority of PCCs are expected to initially adopt Model One and therefore their key objective will be to determine how to take-on and manage the reviews function, the transfer of which is mandatory whichever model is chosen.
- 2.8 PCCs will be able to move to a different governance model after their initial decision. Such a move will be subject to consultation with their respective force as to do so will inevitably require reallocation of resources for both parties.
- 2.9 It is recommended that at the commencement of the regulations in line with the Policing and Crime Act 2017 (amending the Police Reform Act 2002), that MOPAC formally adopt Model One for governance of police complaints. The statutory duty for MOPAC to hold the Commissioner to account *'for the exercise of the Commissioner's functions in relation to the handling of complaints'* will rest with the Deputy Mayor. The responsibility for delivering the Complaint Review function will be delegated to the Head of Workforce and Professional Standards. These changes will be reflected in MOPAC's Scheme of Delegation and Consent at the next formal review.
- 2.10 MOPAC operates a tiered system of oversight arrangements. At Oversight Board the DMPC scrutinises the Commissioner's performance on the management of complaints through the quarterly Performance report, which is also published on MOPAC's website. The DMPC also holds regular oversight meetings with Assistant Commissioner Professionalism, who has responsibility for the management of police complaints. MOPAC works closely with the Independent Office for Police Conduct (IOPC) who have a national responsibility for maintaining the standards of the police complaints process. The DMPC meets regularly with the IOPC Regional Director for London and discusses MPS performance on police complaints and discipline. MOPAC officers meet frequently with MPS officers within the Directorate of Professional Standards to discuss the management of complaints.
- 2.11 Complaints against police can by their very nature can be sensitive matters and create significant public concern. It is important that they are responded to in a way that restores trust, builds public confidence, and allows lessons to be learned. MOPAC

working with the MPS, in support of the Government's reforms will look to support the shift to learning when things go wrong. Ensuring that as appropriate officers are held accountable for their actions, through an effective discipline process.

- 2.12 As the reforms take effect, MOPAC will also be reviewing the level of information about public complaints that is made available to the public, via both MPS and MOPAC channels.
- 2.13 MOPAC officers are in regular dialogue with representatives of the MPS, IOPC, Home Office and various other police forces and OPCCs about these reforms. Where other PCCs choose to adopt Models Two or Three, MOPAC will review how effective and efficient these arrangements are and consider any prospective learning for our own governance model.
- 2.14 MOPAC officers will continue preparations for the commencement of the complaints changes, including the recruitment of new staff to manage the transition of force appeals (reviews) from the MPS.

3. Financial Comments

- 3.1 In 2016, the Home Office estimated that the cost to PCCs of dealing with appeals previously dealt with by Chief Constables, will be £2.4m per year. The Home Office also envisaged a possible increase in the number of appeals resulting in estimated costs to PCCs of £120k per year.
- 3.2 MOPAC will commence a recruitment exercise to ensure resources are in place for the assumed go-live date of 1 February 2020. There may also be training and technology support required in order to prepare the new team. It is anticipated that costs will be in the region of £100k and will be met from existing MOPAC 2019/20 budgets.
- 3.3 MOPAC have been working with the MPS to define the cost of the current appeals function to the MPS. Whilst this work continues, MOPAC have estimated that the cost of a new team to manage the appeals to be approximately £400k. During the 2020/21 budget process it will be necessary to re-align budgetary provision.

4. Legal Comments

- 4.1 Under the Police Reform and Social Responsibility Act 2011 MOPAC is to hold the Commissioner to account and handle complaint and conduct matters in relation to the Commissioner. MOPAC is to hold the Commissioner to account for the exercise of the Commissioner's functions under Part 2 of the Police Reform Act 2002 in relation to the handling of complaints.

- 4.2 The Policing and Crime Act 2017 amends Part 2 and Schedule 3 - Handling of Complaints and Conduct matter etc. of the Police Reform Act 2002.
- 4.3 The Police Regulations governing these changes have been finalised. The necessary changes to the MOPAC Scheme of Delegation and Consent to reflect these changes will be made at the next formal review.

5. Commercial Issues

- 5.1 Commercial issues are not applicable.

6. GDPR and Data Privacy

- 6.1 This decision to adopt Model 1 does not require any GDPR issues to be considered in the immediate period. This model represents the statutory minimum that PCCs will be required to take-on under the Home Office reforms to the police complaints process. It is expected that formal guidance around the compliant and secure processing of complainant data will be made available to PCCs by the Home Office as we move closer towards the implementation period.

- 6.2 Access to personally identifiable data of members of the public will be a consideration once MOPAC take-on the responsibility for reviews under the Phase 3 reforms. MOPAC will work closely with the MPS to ensure all data privacy considerations are made and as necessary a DPIA completed.

7. Equality Comments

- 7.1. MOPAC is required to comply with the public sector equality duty set out in section 149(1) of the Equality Act 2010. This requires MOPAC to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations by reference to people with protected characteristics. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 7.2. The Police and Crime Plan 2017-2021 contains within it a focus on: *'Reducing inequalities in communities.'* At the heart of our mission is a focus on setting an agreed standard and addressing the disparities we see across the city, making sure that a basic quality of service is there for everyone in London.

- 7.3. The effective handling of complaints and thus the oversight arrangements for this is an important topic for all London's communities. Effective oversight enables MOPAC to ensure there is no disproportionate impact on any protected characteristic.

8. Background/supporting papers

- 8.1. None.

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOIA) and will be made available on the MOPAC website following approval.

If immediate publication risks compromising the implementation of the decision it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary.

Part 1 Deferral:

Is the publication of Part 1 of this approval to be deferred? No

Part 2 Confidentiality: Only the facts or advice considered as likely to be exempt from disclosure under the FOIA should be in the separate Part 2 form, together with the legal rationale for non-publication.

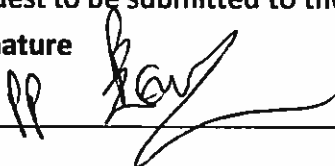
Is there a Part 2 form – No

ORIGINATING OFFICER DECLARATION	<i>Tick to confirm statement (✓)</i>
Financial Advice The Strategic Finance and Resource Management Team has been consulted on this proposal.	✓
Legal Advice Tfl Legal advice has been incorporated.	✓
Equalities Advice: The Workforce Development Officer has been consulted on the equalities and diversity issues within this report.	✓
Public Health Approach Due diligence has been given to determine whether the programme sits within the Violence Reduction Unit's public approach to reducing violence. This has been reviewed and supported by a senior manager within the VRU.	✓
Commercial Issues Commercial issues are not applicable.	✓
GDPR/Data Privacy <ul style="list-style-type: none"> • GDPR compliance issues are covered in the body of the report. • A DPIA is not required. 	✓
Director/Head of Service The Head of Workforce and Professional Standards has reviewed the request and is satisfied it is correct and consistent with the MOPAC's plans and priorities.	✓

Interim Chief Executive Officer

I have been consulted about the proposal and confirm that financial, legal and equalities advice has been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the Deputy Mayor for Policing and Crime.

Signature



Date

31/01/2020