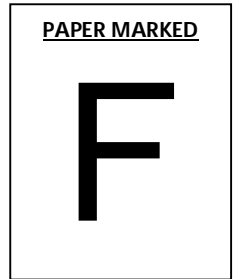


**POLICE AND CRIME
COMMISSIONER FOR
LEICESTERSHIRE**

**ETHICS, INTEGRITY AND
COMPLAINTS COMMITTEE**



Report of: **CHIEF CONSTABLE**

Subject: **DIP SAMPLING OF COMPLAINT FILES**

Date: **FRIDAY 13 DECEMBER 2019 – 10:00 a.m.**

Author: **ANGELA PERRY, EXECUTIVE DIRECTOR
SIMON HURST, PROFESSIONAL STANDARDS DEPARTMENT**

Purpose of Report

1. The purpose of this report is for members discussion on the findings from the dip sampling of complaint files.

Recommendation

2. It is recommended that members:-
 - (a) discuss the outcome of the dip sampling of complaint files; and
 - (b) consider a theme for the next dip sampling session.

Background

3. The Police and Crime Commissioner has a responsibility for ensuring that the Chief Constable is applying police regulations in the handling of complaints. The Police and Crime Commissioner fulfils this statutory responsibility by receiving reports from the Chief Constable to the Strategic Assurance Board and by the members of the Ethics, Integrity and Complaints Committee dip sampling of complaint files and reporting on their findings.
4. Dr Peel, Ms Chouhan and Ms Richards, undertook dip sampling of complaint files on Tuesday 29 October 2019 in preparation for the December meeting of the Committee. The outcome of the dip-sampling is as follows:-

Office of Police and Crime Commissioner

Ethics, Integrity and Complaints Committee - Dip Sampling of Complaints Files

Tuesday, 29 October 2019

<u>Category of Complaint</u>	<u>File No.</u>	<u>Comments by member of Ethics, Integrity and Complaints Committee</u>	<u>Force Response</u>
Honesty and Integrity; Confidentiality; Duties and Responsibilities; Discreditable Conduct	CM/0063/18	Satisfied that this is being treated as misconduct if not gross misconduct.	Noted – Thank you
Discreditable Conduct	CM/00066/18	This was a very difficult case to consider for the force and I am satisfied that the final decision is proportionate and fair.	Noted – Thank you
Duties and Responsibilities	CM19/19 MI/007/19	PC (A) damaged a police car by ‘a deliberate act’ which in my opinion could well have been constituted dangerous driving. If this action had been committed by a member of the public, and observed by police, I suspect criminal proceedings would have resulted. It is my judgement that it is not ethical for PC (A) to be dealt with via management action only in the <u>absence</u> of evidence as to why a criminal charge was deemed to be unnecessary, and inappropriate in this case.	Noted – This was an isolated event from a young service officer. We believe no further damage was caused or others involved. Regarding comments in relation to a member of the public being prosecuted, it is the view of the AA that this would not have been the case as it is unlikely to be in the public interest to pursue criminal charges. The AA gave management action personally to the officer and impressed the standards of behaviour expected and the officer was extremely remorseful of his actions.
Honesty and Integrity;	CM/004/19	Investigation of a business interest. Well and transparently investigated.	Noted – Thank you

DSI	MI/174/19	Agreed.	Noted – Thank you
DSI	MI/177/19	Agreed.	Noted – Thank you
DSI	MI/205/19	Agreed.	Noted – Thank you
Neglect of duty	CO/00448/18	Local resolution with consent.	Noted – Thank you
Incivility	CO/449/18	Agree with management action and organisational learning after unacceptable delays in investigation. Given pressures and challenges placed upon Leics Police, I support the 'extra mile' taken to cover this situation. Particularly in regard to the young boy with autism, who was given a tour of HQ to improve his view of Police. Well done.	Noted - Thank you

<p>Failures in Duty Code C</p> <p>Neglect of duty</p> <p>Corrupt practice</p> <p>Mishandling of property</p> <p>Failures in Duty Code B</p> <p>Incivility</p> <p>Discriminator behaviour</p>	<p>CO/00506/17</p>	<p>Follow up organisational learning:</p> <ol style="list-style-type: none"> 1. It would be useful for the committee to see the new procedural document in respect of digital media investigations that form part of criminal investigations. (page 6 compliant report) 2. Did the Head of Criminal Justice reintroduce a form (similar to BC23) to list any damaged caused during a search? 3. If a person is remanded in custody before their first court appearance, are they now given a full copy of their custody record (if they request on their release) not just cover sheet? <p>Why is there no record of which officer or police staff member asked for the PIN number to the complainant's mobile phone? Is this not required on the custody record?</p> <p>Comprehensive and very well documented investigation.</p>	<p>Digital Media Document (emailed to Panel members on Friday 6/12/19)</p> <p>This learning has been included and is being tracked on the Organisational Learning database. An email was sent to the Head of Criminal Justice on the 27th November 2019 to chase for a response.</p> <p>The organisational learning within this complaint was disseminated to the relevant department and in response to point 3, Ch/Insp XX confirmed that all PACE Inspectors and Sergeants have been reminded of this entitlement</p> <p>Those who may have obtained the PIN number have no recollection of doing so. However, regardless of this, it should have been recorded somewhere and should be standard practice as defined in the College of Policing APP for investigation and in line with the CPIA (Criminal Procedures and Investigations Act 1996)</p>
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Oppressive Conduct/Harassment; Failures in Duty Code B	CO/00055/19	Complaint around house search from mother asserting her son (subject of the search) not resident at address. Clear intelligence (subject seen at address) and evidence (subject's driving licence & post at address) would suggest that he is regularly there, if not resident. No evidence that search was conducted unlawfully or insensitively to mothers concerns. Well conducted via local resolution.	Noted – Thank you
Oppressive Conduct/Harassment; Incivility	CO/00058/19	Alleged damage to door and 'rudeness' from officers. No damage to door found and no evidence that officers had kicked the door, which the complainant did not see, and both officers deny. No evidence of rudeness towards complainant, BWV was not used (i.e. switched on) and this might have been of help. Otherwise well resolved via local resolution.	Noted – Thank you
Duties and Responsibilities	CO/00468/17	Four initial allegations reduced to one: of arrest for having indecent images (videos) on phone – when complainant had been advised to record and store this information in call on 19:10:17 // on 16:10:17 a meeting to consider subjects allegations of harassment – 'it was established that the possession of the video with sexual images of a child of 16 years of age constituted a criminal offence' – leading to decision to arrest subject. Subject advised by solicitors to question the lawfulness of his arrest, call handler interview reports that she has not 'picked up' on the fact that the video and witness A was aged 16-18 and thus that... "The video amounted to an indecent image of a child". Evidence from PC XXXX suggests that advice to copy the video from snapchat prior to deleting 'would have been stock advice... (as	Noted – Thank you With regards to call handlers, an email has been distributed to everyone within CMD and also learning has been included in the CSE / Grooming input which is given to call takers. DMI's have been reminded of the requirement to ensure when advising others to secure evidence that it is taken into account the nature of the content and any potential storage issues.

		<p>Snapchat is an application where posts can disappear quickly.</p> <p>DC XXXX evidences that the sexual act captured by video was held to be non-consensual by witness A (16 year old), but consensual by complainant. Thus that at the point of the video being made – a criminal act may have been committed. Some evidence of poor communication and of lack of recording in relation to progression of investigation/arrest etc. Management actions for DC & DI involved around record keeping.</p> <p>A very comprehensive and detailed investigation.</p> <p>Has action been taken to ensure call handlers and advice from Cyber Crime team been updated to check around age of all engaged in future?</p>	
<p>Incivility</p>	<p>CO/00078/19</p>	<p>Allegation of ‘rudeness’ from call handler during 999 call. Evidence found the call taker, ‘confrontational during the call and falls below the standards we expect as a dept.’ Management action followed through with call taker. Excellent investigation.</p>	<p>Noted – Thank you</p>

Duties and Responsibilities	CO/00482/17	<p>Allegation(s) of rape & sexual assault relating to 3 girls by 15 year old boy.</p> <p>A painstaking investigation of 19 allegations within this complaint is presented, with one officer (DC(C)) being recommended to be referred to a misconduct hearing with ref to 7/19 allegations and management action against (PC(C)) in relation to 1/19 allegations.</p> <p>Whilst I agree with this conclusion in general – I would ask why gross misconduct was <u>not</u> being considered for (DC(C)) as her actions/inactions in this case appear to be grossly negligent.</p>	<p>The Investigation conducted by the DC had a number of significant failings. Taking into consideration workloads, levels of experience and supervision, the AA did not feel that the conduct was so serious that dismissal would have been justified. The officer was subsequently given a written warning at the disciplinary meeting. An important reference document for these decisions is the College of Policing ‘Guidance on Outcomes in Police Misconduct Proceedings’. The comment made has caused the AA to reflect and review the decision but the AA remains of the view that the outcome meets the purpose of the police misconduct regime to deter future misconduct whilst maintaining public confidence.</p>
DSI	MI/165/19	Appropriate non-referred to IOPC. Clear investigation and description of events. Excellent.	Noted – Thank you
DSI	MI/136/19	Appropriate non-referred to IOPC. Again, a very professional investigation is presented.	Noted – Thank you
Use of Force	CO/00455/18	<p>Compliant in relation to stop and search from vehicle. 6 allegations made, of which, 5 not upheld. Allegation 5 (in relation to 3 officers) upheld, with progression through management action.</p> <p>Has the dip sampling of PI records (see letter 03/06/2019) under allegation 5 for the use of BWV been completed? If so, what learning was identified and how has this been communicated?</p>	<p>Noted - In this instance, no it was not. This however was part of the words of advice delivered to the officer during the Management Action conversation; that stop searches should be physically dip sampled for compliance.</p> <p>A further update from the Chief Inspector confirms that the Officer to which this complaint relates has been temporarily promoted and therefore the opportunity to sign is not currently there but will seek to do this a</p>

			working practice going forwards.
Incivility; Oppressive Conduct/Harassment; Lack of Fairness/Impartiality	CO/00101/19	<ul style="list-style-type: none"> - Redaction of phone numbers would be preferred - Was officer three asked whether she did in fact ask about the complainant going to 'immigration?' If so, the relevance to the matter would be open to question. - Otherwise satisfied with resolution and outcome 	<p>Noted – On this occasion the telephone number was included in the activity log which the officer used as their 'working sheet' during the enquiry. This ensured that they had a reference point to re-contact the complainant.</p> <p>The reference to 'immigration' was made by the complainant. It perhaps should have been made clear in the report that Mrs XX alleged that her niece was trafficked into the country by her husband. This point needed to be explored in order to see if support by police needed to be put in place, and criminal action to be taken against her husband. The questions in relation to 'immigration' were a legitimate line of enquiry to safeguard a potentially vulnerable victim. This was found not to be the case.</p>
Neglect of Duty; Improper Disclosure; Oppressive	CO/00427/18	Satisfied that the complaint was disappplied.	Noted – Thank you

Conduct/Harassment; Other Irregularity in Procedure			
	CO/00168/18	<p>PC XXX page 55-65 – I am unclear of the role (driver) of PC XXX who was not investigated as part of the complaint – but on page 66 “exchange of words which is evidenced by PC XXX”.</p> <p>Otherwise satisfied that this is a thorough investigation, with lessons learned about BWV.</p>	<p>Noted – it was felt by the IO that due to a number of factors, namely the seat proximity, the internal fan being on and at the time the officer suffering from a hearing complaint, the officer could not hear exactly what was being said and therefore would not be able to offer anything constructive to the investigation or indeed warrant being investigated.</p>
Complaint	CO/000741/19	<p>I am satisfied with the investigations and complaint outcome.</p>	<p>Noted – Thank you</p>
Complaint	CO/000380/18	<p>I am satisfied this was thoroughly investigated and pleased to see lessons learned about needing to check information given from the complainant and the doormen.</p>	<p>Noted – Thank you</p>

Abuse of authority	CO/469/19	The complaint was withdrawn, but management action was taken. Is it possible to be updated on what this was?	Identified Learning; Management Action – Professional discussion with the officer for him to reflect on his attendance at the Council in uniform whilst off duty, and the perception of third parties. Also reminded of the requirements of the Force Appearance Standards procedure.
Lack of fairness / impartiality.	CO/305/18	Time has elapsed over a 12 month period required therefore no action taken “agreed”. No further action.	Noted Thank you.
Incivility / Neglect of Duty	CO/475/17	I agree with actions taken. Not upheld further learning.	Noted Thank you.
Neglect of Duty	CO/421/18	All attempts to contact complainant had been made – no possible other way to deal with situation. Local resolution “proper outcome”	Noted Thank you.
Duties & Responsibilities	CO/2/18	9 allegations: one upheld – but, given this, opportunity for individual learning through management action recommended for one officer. Allegation 7 around a custody officer wearing bangles has been acknowledged by the officer in question in relation to policy, but did not have detrimental effect on complainant. A strong	Noted Thank you.

		<p>investigation of the complaint is captured in the paperwork. Good use of BWV evidence and creative use of management action for areas in which, whilst no case of misconduct or gross misconduct can be made, areas of individual improvement can nonetheless be found. Indicative of a clear commitment to improvement and of positive use of the complaints system for honest reflection and proportionate action. Excellent!</p>	
Use of Force	CO/265/19	<p>Five allegations made around arrest of complainant. One upheld with resultant management action. Professional discussion and officer safety training. Four dismissed. Papers show clear evidence of excellent investigation of this complaint with appropriate and proportionate outcome.</p>	Noted Thank you.
Authority Respect & Courtesy. Duties & Responsibilities.	CO/531/17	<p>A complex complaint around an arrest made following a serious stabbing incident. 16 allegations made, with 9 subsequently withdrawn. Whilst none of the remaining allegations were subsequently upheld; opportunity for personal learning and development through management action was recommended for three officers in response to allegation 13. Evidence of police learning from complaint which did not meet standard for misconduct or gross misconduct is therefore admirable.</p>	Noted Thank you.
Failure in Duties – Code B PACE	CO/371/18	<p>Concern for wellbeing of complainant who had telephoned to say her boyfriend was threatening her with a knife. Police urgently attended due to possible threat to</p>	Noted Thank you

		life - but no response at address. Police action was proportionate so held no liability for recompense.	
Incivility/ Oppressive Conduct	CO/22/19	Complaint withdrawn. No issues detected.	Noted Thank you
Oppressive Conduct / Harassment	CO/31/19	Complaint withdrawn by complainant after positive discussion with police officer (subject of complaint) had resolved concerns.	Noted Thank you
Oppressive Conduct	CO/39/19	Complaint appropriately resolved via management action with advice to officer around potential conflict of role (professional /personal) and opportunity to consider re-deployment if need be. Excellent evidence of a reminder being given that, even when off duty.	Noted Thank you.
Unlawful Arrest / Corrupt Practice.	CO/227/18	Complaint not upheld – but opportunity for individual learning through management action identified. (2 nd complaint from this complainant looked at today by me in random dip sampling ref back to CO/531/17). An entirely proportionate and patient investigation of a largely vexatious complaint.	Noted Thank you.

IPCC Non-Referral Register

5. The IPCC non-referral register was not examined on this occasion.

Implications

Financial :	None.
Legal :	The Police and Crime Commissioner has a statutory duty to ensure that the Chief Constable is applying Police Regulations.
Equality Impact Assessment :	None.
Risks and Impact :	The Commissioner requires assurance that complaints from members of the public.
Link to Police and Crime Plan :	None.
Communications :	Media releases before and after the discussion will be drafted.

List of Appendices

None.

Background Papers

Members reports from dip sampling.

Person to Contact

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