

IPCC Oversight and confidence Casework and Customer Service pilot projects 2013

Local resolution

Contents

Introduction	3
Objectives	3
Methodology.....	3
Selection of police forces	3
Data collection	3
Complainant survey	4
Good practice examples.....	5
Findings.....	6
Suitability for local resolution.....	6
Suitability of action plans.....	6
Communication	7
Imposed local resolution	9
Good quality outcomes	9
Documentation.....	11
Process.....	12
Officers complained about	12
Further work	13

Introduction

1. The Independent Police Complaints Commission (IPCC) has a statutory duty to secure and maintain public confidence in the police complaints system in England and Wales, under the Police Reform Act 2002 (PRA). The Police Reform and Social Responsibility Act 2011 (PRORA) which came into force in November 2012 changed the way most complaints are handled.
2. Under the new legislation, the complainant's consent is no longer needed to resolve a complaint locally. Complainants now have a right of appeal against the outcome of the local resolution process, whereas previously they could only appeal about whether the process had been followed. This was expected to improve the quality of local resolutions, ensure a focus on reaching a resolution, and reduce bureaucracy.
3. This pilot project was designed to allow the IPCC to collect and share good practice with all police forces.

Objectives

- a. To identify examples of good practice in locally resolved complaints
- b. To quantify what, in the eyes of the complainant, makes a good local resolution
- c. To share good practice with forces to assist their handling of locally resolvable complaints and improve customer experience

Methodology

Selection of police forces

4. We analysed the local resolution data for each professional standards department (PSD) for 2011/2012. Six PSDs were shortlisted to be included in the project on the basis that they locally resolved a high number of cases in the past, had a relatively low rate of appeal, and a low rate of upheld local resolution appeals. The data provided an indication that the PSDs selected were good at locally resolving complaints at the appropriate level. All six PSDs had sufficient numbers and file sampling visits were arranged with these forces.

Data collection

5. We sampled files at each of the six PSDs. These were selected randomly before each PSD visit, from a list of locally resolved cases completed under the new legislation.

6. We created a template to collect and record the same quantitative and qualitative data from the files in each case for consistency. We sampled 206 cases across the six PSDs.
7. We held discussions with PSD investigating officers during each force visit to find out additional information about the processes in the force, officer training, timeliness targets and local practice. Two PSDs provided a response to the questions electronically, as opposed to during the force visit. Following the PSD visits, we analysed the data and produced this report.

Complainant survey

8. We asked people who had made complaints and had them locally resolved under the new legislation for their views, to explore their experiences of the process and understand what they considered to be good customer service. We asked the six PSDs to send an IPCC letter to those who had complained and had not made an appeal following local resolution. The letter asked the people who had made complaints to contact the IPCC if they were willing to take part in the study. A total of 29 of those who had made a complaint contacted us to say they were willing to take part. While some participants' files might have been sampled during our PSD visits, this sampling was done independently; we did not limit the sample to only those whose cases we had seen.
9. We invited three independent consultancies to tender to carry out telephone interviews on our behalf. Two of these made bids and we selected one, Ian Hearnden. We provided them with contact details for the 29 participants and a telephone questionnaire. We explained to the participants that the person who would be interviewing them was unfamiliar with the police complaints system and their complaint. Ian Hearnden managed to make contact and interview 25 of the 29. We are publishing the complainant survey report in addition to this overall report.

Good practice examples

10. When asking for data from PSDs about their completed local resolutions, we also asked for examples of what they thought were well handled, good practice local resolutions. In particular, where contact with the complainant was successful and the investigating officer had recognised wider issues, as well as resolving the complaint. Examples included:

“In terms of what we consider as good practice, we have utilised body worn video in the past for officers / police staff who are prone to attract a greater proportion of complaints. In one instance a former traffic warden was equipped with body worn video and this helped to reinforce that the member of staff's actions were a little overbearing towards members of the public after the relevant footage was played back to the individual.”

“Mr x complained about what he thought was poor service when he reported incidents of harassment and threats. He believed that this was due to his sexuality and race. A face to face meeting took place with the complainant who wanted the officers to appreciate the impact their perceived lack of knowledge and understanding around homophobic and racist incidents had upon him. The incidents were very subtle in nature and not immediately obvious to the officers. The action plan agreed consisted of a restorative conference between Mr x and the officers concerned and for the investigation to be reviewed by the Inspector. He also agreed to make a short video film of his experiences that will be used as a learning tool for all officers and police staff. In addition, Mr x now also has a Single Point Of Contact via the local resolution officer should he be subject of similar harassment. Ultimately, the complainant only ever wanted the officers to learn from the experience.”

“Mr y was a repeat victim of car crime on 6 occasions within an 18 month period. These matters were reported to the police and were investigated, but due to the lack of evidence, those responsible were not identified. The complainant became very concerned about the vulnerability of his vehicle and fearing further damage; decided to park it outside his home, in vicinity prohibited by double yellow lines. As a result he received a local authority parking penalty ticket on 4 occasions. Mr y complained that the police were not doing enough to catch those responsible and prevent further damage to his vehicle. He asked the police to contact the local authority to exercise influence over his application for the fines to be waived. The initial police response was to reject the request. However, as part of the local resolution it was agreed that whilst there would be no attempt to exercise influence over the council's decision, the police would notify the council over the facts of the instances of damage and that it would be for the council to make its own judgement on the merits of his case. Its decision was to waive the penalties but to make it clear that the gentleman must not continue to breach the parking restrictions.”

Findings

Suitability for local resolution

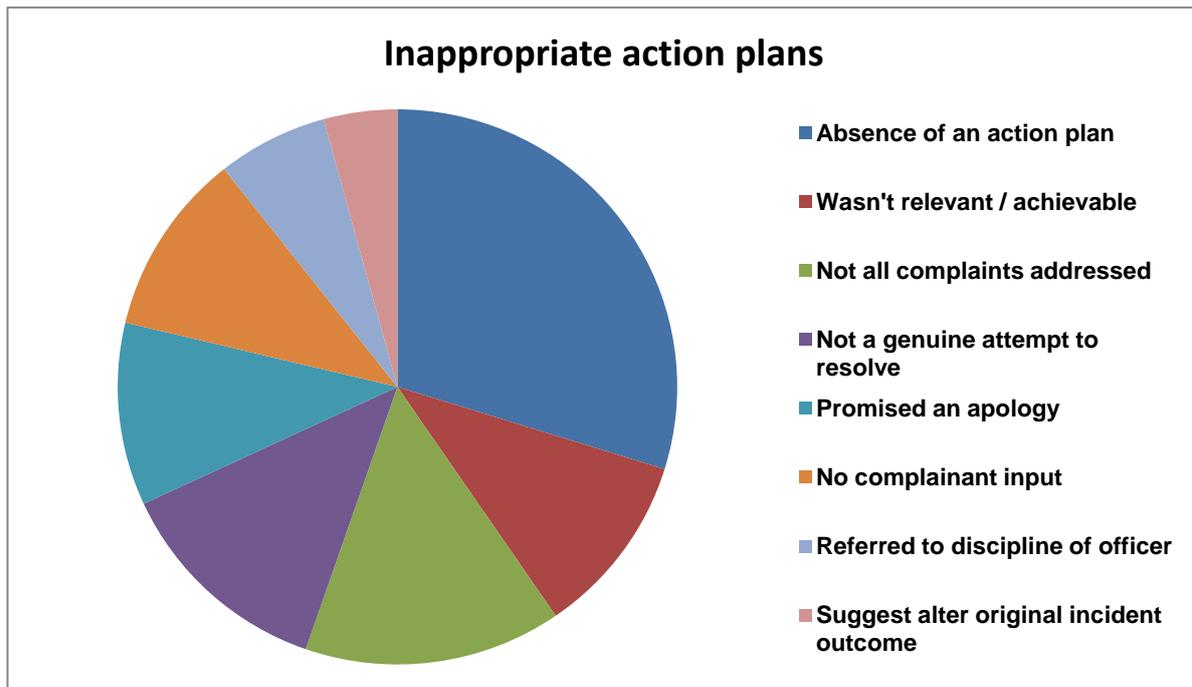
11. Under the new legislation a complaint is suitable for local resolution if the appropriate authority is satisfied that:
 - a. the conduct being complained about, even if proven, would not justify bringing criminal or disciplinary proceedings against the police officer concerned; and
 - b. the conduct complained about, even if proven, did not infringe a person's rights under Article 2 or 3 of the European Convention of Human Rights.
12. The second part of the suitability test is new and we needed to establish if PSDs were correctly applying the legislation when resolving complaints locally. Our findings were very positive – 91 per cent of the 206 cases sampled were suitable for local resolution.
13. This demonstrates that those forces have a good assessment process and that appropriate complaints are being locally resolved. The small number of cases that were thought to be unsuitable for local resolution were often related to allegations of assault, unlawful arrest and breaches of the Data Protection Act. These were all cases where criminal or disciplinary proceedings would be justified, if the complaint was proven. We found no cases of a potential infringement of Articles 2 or 3 and, therefore, the new part of the test appeared to be correctly applied.
14. The telephone interviews showed us that those who had made complaints were most likely to complain to express their views or anger, to stop a similar thing happening again, or because they wanted the officer(s) they had complained about to be disciplined. It is important that, when assessing the suitability of a complaint for local resolution, the investigating officer considers the likely outcomes and what resolution might be possible. It is essential to manage the complainant's expectations, and to tell them why their complaint is suitable for local resolution. Only eight of the complainants surveyed (32 per cent) said someone explained that no disciplinary procedures would be taken against the officer(s).
15. IPCC Statutory Guidance states that when deciding if a complaint is suitable for local resolution, it should be taken at face value. It is acceptable to contact the complainant, however, to get a better understanding of the complaint before making an assessment. If there is a lack of information to support the allegation, the investigating officer must not start a mini-investigation (for example, get the custody record, incident logs, contact the officer, etc) to help decide if the complaint is suitable for local resolution.

Suitability of action plans

16. Local resolution is a flexible process that should be adapted to meet the needs of the complainant and the specifics of the complaint they are making. An

action plan should be effective, achievable, relevant to the complaint, and should clearly show what steps will be taken to resolve the complaint. In 84 per cent of cases sampled, the action plan was appropriate.

17. We analysed those we considered inappropriate and identified the following reasons:



18. For local resolution to be successful, there should always be an auditable action plan that has been agreed with the person making the complaint. The plan should be relevant to the complaint and address all of the concerns. The investigating officer should make a genuine attempt to resolve the complaint. This includes thinking about ways to resolve the matter that are relevant and meet the needs of the person making the complaint instead of having a standard plan and a 'one size fits all' approach.

Communication

19. Below are some investigating officers' statements about communicating with a person who has complained, which show a sound approach to implementing the local resolution process effectively:

"It is important to remain objective when meeting the complainant – it is best not to do research before so as not to pre-judge the circumstances. It is important to ask the complaint 'what can we do about it' and empower and engage them in the process."

"Dealing with a dissatisfied customer is a supervisory skill and it is important to go and see the complainant and listen to their concerns – give them an

uninterrupted opportunity to air their views. There is a psychological element to customer service – allow the complainant to unload and listen to them.”

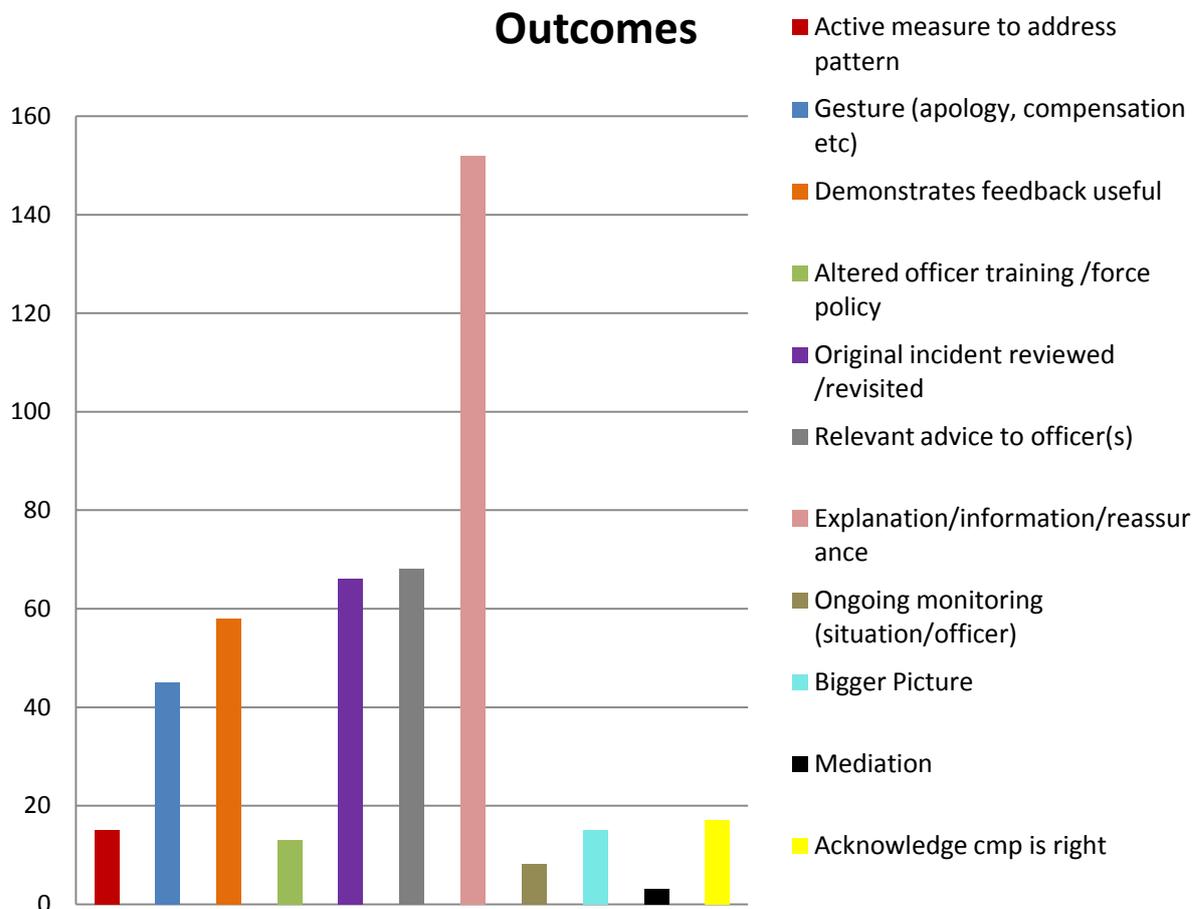
20. The most effective local resolutions had the following features:
 - evidence of involving the complainant in the process, particularly with the action plan
 - the investigating officer gave the complainant appropriate information about the process, including its limitations
 - the complainant was told the outcomes, including any explanations the officer being complained about gave
21. The six PSDs communicated with people making complaints in different ways, but the overwhelming evidence suggests that best practice is to meet with complainants face-to-face. This makes it possible for the investigating officer to build a relationship with the complainant and demonstrates commitment and time to the process. Most (three in five) of the people interviewed about their complaint met face-to-face with the investigating officer. Six of those complaining said no meeting was offered. In some cases, the complainant might choose to communicate by other means (email/telephone) and one force said it would be impossible to try to visit every person who made a complaint, as the police force covered a very wide geographical area. While other methods of communication are acceptable and should be agreed with the complainant, there should be a clear written record of what has been discussed. The telephone interviews told us that 17 of the people who had complained (68 per cent) reported being given a chance to say how they wanted the complaint resolved. Encouragingly, 80 per cent said that steps were taken to find out what result would satisfy them.
22. The most common reason that communication failed was because the outcomes were not explained to the complainant. This is essential. In some cases, the Professional Standards Department sent a letter explaining the outcome. In other cases, the final decision letter to the complainant simply talked about the actions in the action plan being completed or, alternatively, confirmed that the officer complained of had been told about the complainant's concerns. This is not meaningful and does not provide any resolution for the complainant. Seven of the people interviewed (28 per cent) were not told the outcome, stated nothing had happened, or were unaware of what had happened.
23. The most effective practice was where the local investigating officer, who had dealt with the action plan and (preferably) built a relationship with the complainant, told them the outcomes. This included giving them the explanations of the officer(s) being complained about, and any other information or additional actions taken. The PSD then sent the final decision letter to the person who complained, telling them the local resolution process was complete, and explaining their right of appeal.

Imposed local resolution

24. Under the new legislation, a complainant does not have to give their informed consent to the local resolution process. This means that where a complaint is suitable for local resolution, the investigating officer can proceed with this process even if the complainant does not want local resolution. PSDs told us that this change has caused difficulties.
25. Most of the PSDs told us that the new legislation has had little overall impact on the way they use local resolution, and that most still try to get the complainant to agree to the process. Only two PSDs said that if a complainant will not engage in the process they might go ahead with local resolution for complaints about less serious matters. The other PSDs felt that there was little benefit in continuing with local resolution if the complainant will not engage in the process, as a genuine resolution would not be possible. In these circumstances, the PSD would carry out a proportionate investigation or sometimes consider if disapplying the legislation was appropriate.
26. IPCC Statutory Guidance states that:
“there may be occasions, either because the relationship between the complainant and the force has irretrievably broken down, or because the complainant’s desired outcome is unachievable, where there is no possibility of engaging in a two-way process. Additionally, it is unlikely to satisfy a complainant if he or she feels that local resolution has been imposed against his or her express wishes. In these instances a local investigation may be the most practical and satisfactory means of dealing with a complaint.”
27. One of the most important parts of the process is giving complainants an opportunity to voice their concerns and be involved in developing the action plan to shape the way complaint is resolved. The complaint is unlikely to be resolved where this does not happen. The almost inevitable result is that the complainant will appeal against the local resolution, which prolongs the process for all, adds work to the complaints system, and increases dissatisfaction.

Good quality outcomes

28. There were good quality outcomes in 86 per cent of the cases.



29. In most cases there was an explanation or information given to the complainant. Often relevant advice was given to the officer being complained about or there was a review of the original incident. Mediation is very rarely used. This is reflected in the results of the telephone interviews, where only three of the people who had complained were offered the chance to meet with the officer they had complained about. None of these felt mediation was successful. Half of the people who had complained would have welcomed a meeting with the officer they were complaining about, but there was none offered.
30. In spite of this, the telephone interviews show that almost two thirds of those who complained were fairly or very dissatisfied with the final outcome of their complaint. This is very disappointing. Satisfaction with the outcome tended to depend on the expectations and aims they had at the beginning. Only five of those spoken to felt their expectations had been met. Where those who had complained felt their expectations were not met at all, seven had started the process with unrealistic expectations (wanting disciplinary action, compensation or a full investigation). This highlights the need for good communication, and the importance of managing the complainant's expectations from the beginning.

31. It is important that the officer complained about takes part, and they should be actively encouraged to provide an explanation. IPCC Statutory Guidance states that a person making a complaint should generally be able to expect the person they are complaining about to make a comment about the complaint. Where appropriate to the complaint being made, this should always feature as a point on the action plan. This goes further than making the officer aware of the concerns in the complaint. If the officer gives an account or explanation, this should always be passed on to the complainant.
32. Good examples of local resolution showed not only good quality communication and outcomes, but also often showed that the investigating officers had thought about the bigger picture and wider learning.
33. They included:
- Evidence of the investigating officer genuinely resolving the concerns of the family following the death of their son and the police enquiries that were made. There was a sincere response from the officer complained about, who apologised for the way she delivered the death message, explained her good intentions; also, that she was mortified by the complaint and has since considered the force's Sudden Death policy and learned a lot from the incident. The investigating officer produced a well written letter providing an apology and also shared details of the case with the force learning and development lead for details of the case to be included in future officer training.
 - A complaint relating to the complainant's daughter who has mental health problems appearing on TV series 'Police Interceptors' without knowledge and being identifiable. There was an extremely well written letter from the Chief Inspector acknowledging the complainant's concerns, providing explanation, taking full responsibility, apologising, and setting out the organisational action taken to prevent a similar incident happening, which included liaising with the series' producers. The letter was written in sympathetic, honest and non-defensive language.
 - A complainant who raised issues of poor service when he reported incidents of harassment and threats, which he believed were owing to his sexuality and race. A face-to-face meeting took place with an operational Inspector and a PSD officer. The complainant wanted the officers to appreciate the impact of their perceived lack of knowledge and understanding around homophobic and racist incidents on him. The action plan included a restorative conference between the complainant and the officers and a review of the original incidents by an Inspector. The complainant agreed to make a short video film of his experiences that the PSD plans to use as a learning tool for its staff. The complainant also now has a single point of contact in his area should he experience any further harassment.

Documentation

34. The documentation used in local resolution varied between the PSDs. For

some, there was one local resolution form where everything was recorded. For others, the action plan was part of an email and the outcomes were written in the final decision letter to the complainant. In some PSDs, we found poor record-keeping and were unable to establish what communication there had been with the complainant or what the outcomes were.

35. We found having one form was most effective. A good local resolution form:
 - guides the person using it through the process and prompts a suitable discussion with the complainant
 - ensures there is a written record of the action plan and the complainant's wishes
 - provides a section to write down the outcomes of each point in the action plan
 - explains how the complainant was told the outcomes and any comments they make in reply.
36. This provides one document that records all details of the local resolution. A copy of the form should always be given to the complainant and the officer complained about at the end of the process.

Process

37. Each PSD operates differently when responding to complaints and particularly when using the local resolution process. In some of the cases we looked at, the PSD plays a much bigger role and either leads the local resolution or is responsible for a large part of it. The IPCC's view is that local resolution should happen at local managerial level and, where possible, be led by the line manager of the officer complained about.
38. We recommend that senior divisional officers should be responsible for the complaints made in their area and about the officers they manage. The investigating officer should take responsibility for the local resolution process and see it through to the end, including telling the complainant what the outcome is. To be sure the process has been followed correctly, the investigating officer should give the PSD the completed local resolution form, with details of the actions taken. The complainant and the officer should be given a copy of the form as a matter of course. The PSD should then be responsible for sending the complainant the final decision letter with their right of appeal.
39. Some PSDs look at numbers of complaints and other information about complaints, and talk about this with local management at quarterly meetings. This gives more responsibility to local areas and highlights the areas where improvements can be made.

Officers complained about

40. Officers complained about do not support and believe in the local resolution process; this was evident both from discussion with investigating officers and

from the responses seen on the case files. More needs to be done to make sure officers understand the process and why it is the most appropriate way to handle certain complaints, receive appropriate support, and actively engage in the process.

Further work

41. We will be publishing a regular Oversight Digest, to share guidance and advice as a result of our oversight work. One of the editions will deal with local resolution.
42. The four PSDs subject to file sampling and analysis have been given individual recommendations.