

Report to: Police Authority

Agenda #: 4

Date: 5 February 2020

Subject: Police integrity regulatory changes

Sponsor: Chief Executive

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For: Noting

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1. Purpose of paper

- 1.1 This paper has been prepared to advise the Authority of the proposed changes to the police complaints and disciplinary systems being introduced following the implementation of reforms set out in the Police and Crime Act 2017.
- 1.2 Approval to adopt these changes through revised BTP Regulations will be sought at a later date, once the final drafts have been prepared and consulted upon.

2. Summary

Background

- 2.1 In 2013, the then Home Secretary Theresa May initiated the expansion of the IPCC, now Independent Office for Police Conduct (IOPC). In March 2015 the Government published plans for reforming the police complaints and disciplinary systems. This followed an end to end review (known as the Chapman Review) which made a number of recommendations including a clearer and more robust complaints system, greater independence, increased fairness, greater openness and transparency.
- 2.2 This is led to Misconduct Hearings and Police Appeal Tribunals being held in public, as well as Legally Qualified Chairs replacing Chief Officers in leading misconduct proceedings.
- 2.3 In January 2017 the Policing and Crime Act 2017 achieved Royal Assent. This Act was the vehicle to introduce wide-reaching reforms across the entire system following the Chapman Report. The implementation of these changes was intended to be brought about by three phases commencing in December 2017 and January 2018.

- 2.4 The first phase introduced the Police Barred and Advisory Lists. These are records overseen by the College of Policing. The former contains details of officers, Special Constables, and staff members who have been dismissed from policing through the Police Conduct and Performance Regulations, as well as the equivalents for police staff. The Advisory List serves a similar purpose but in respect of employees who have resigned or retired during an investigation. The concept was to increase the accountability of those who are dismissed from policing and ensure these individuals are not able to find positions elsewhere in policing. This information is published as part of the Government's commitment to improving police integrity.
- 2.5 Owing to legislative differences, the BTP/A has not been able to adopt this aspect of the regulations in full but has an agreement in place with the College of Policing to adopt the above principles. The Authority intends to explore this further with the College through an updated Memorandum of Understanding as part of the Phase 3 implementation work.
- 2.6 The second phase involved the renaming of the IPCC and a change to its governance structure. The Independent Office for Police Conduct is now headed up by a Director General who is supported by deputies, Regional Directors and a Director for Wales, as opposed to a Chief Executive and Commissioners. The Authority approved amendment regulations to implement the change to the IOPC and recognise its new powers in December 2017. The amendment regulations did not make any other material changes in respect of complaints and discipline processes.
- 2.7 The third phase represents the most ambitious and significant changes under the Act. These wider reforms reflect a cultural shift. The general themes of the changes aim to make the complaints system more customer focused, ensure the system is proportionate, less adversarial with greater emphasis on learning and improvement. To implement these changes for BTP the Authority is required to prepare new regulations to succeed the following:
- BTP (Conduct) Regulations 2008
 - BTP (Police Appeals Tribunals) Regulations 2008
 - BTP (Complaints and Misconduct) Regulations 2015
 - BTP (Conduct) Regulations 2015
 - BTP (Performance) Regulations 2015
 - BTP (Police Appeals Tribunals) Regulations 2015
- 2.8 This is discussed in more detail in section three of this paper.

Current picture

2.9 Following a long delay, primarily as a result of other Parliamentary pressures, phase three of the reforms has now been introduced for Home Office forces. These new regulations became effective as of 1 February 2020.

2.10 Some of the key changes introduced are as follows:

- The introduction of the new concept of 'Practice Requiring Improvement'.
- The introduction of time limits including for the IOPC in respect of Independent Investigations.
- Potential for early review of misconduct allegations.
- Pre-hearings to take place in misconduct proceedings.
- The ability for the IOPC to present its own cases and to initiate investigations rather than waiting for referrals from forces.
- Changes to available outcomes including the removal of Management Action, Management Advice and the extension to a Final Written Warning. The re-introduction of reduction in rank as a sanction being the most significant.
- Increased powers for the IOPC to conduct all investigations involving Chief Officers.
- Appeals replaced by a new system of reviews for which the local policing bodies will become the review body for locally handled investigations, where this was previously the Chief Constable.
- A shortened process for deciding whether a case should go to a disciplinary hearing.
- A new system of super-complaints so certain designated bodies can complain about trends and patterns

3. Implementation

3.1 The Authority will be aware that as a result of the BTP being governed by different primary legislation, these reforms do not automatically apply. As such, the Authority is required to draft its own regulations mirroring as far as possible those made by the Home Office under sections 84 and 85 of the Police Act 1996.

3.2 These police integrity reforms have been long-awaited and welcomed by many within the professional standards arena. A

number of discussions have taken place between the Authority and BTP over a protracted period. It is evident that there is a strong appetite for BTP to remain aligned with Home Office Forces in this area of policing. The direction of travel is therefore for the Authority to introduce BTP regulations to adopt the changes.

- 3.3 Whilst early versions of the Home Office Regulations have been circulated, the Executive has been unable to finalise BTP's regulations without sight of the Home Office's final versions. These were made available in January prior to the regulations being laid in Parliament. The drafting exercise is almost complete, and the Executive intends to share these products with BTP including the Police Federation and staff associations in the near future. Following this consultation and any resulting amendments they will be made available to the Authority for approval.
- 3.4 In order for the regulations to be implemented the Authority will be required to enter into a formal agreement with the Home Office and the IOPC. The Executive has been working closely with both organisations as well as the Police Investigations Review Commissioner (PIRC) in respect of Scotland. Notwithstanding the governance outlined above, the timings for implementation will in part be dependent on the readiness of the IOPC which is responsible for drafting a new agreement in relation to phase 3 of the programme.
- 3.5 In order for the reforms to be successfully implemented the organisation will be required to respond proactively and positively. With greater emphasis being on promoting a learning culture the changes are not limited to work carried out by Professional Standards Departments but are broader requiring a culture shift if they are to be successful. How this is achieved is something that the Authority and BTP will need to consider carefully. The timings, therefore, are also dependent on BTP's readiness to adopt the change. The Executive continues to work with BTP colleagues to explore this.
- 3.6 As already referenced, one of the key changes is the introduction of a process called Practice Requiring Improvement (PRI). Serious breaches of the Standards of Professional Behaviour will still be dealt with under the misconduct procedures but everything falling short of that which are not classified as poor performance (and dealt with under associated procedures – Unsatisfactory & Poor Performance also known as UPP) should be managed via 'Reflective Practice.' This stage ends PSD involvement and the onus is on managers across the organisation to manage. PRI would also apply to Chief Officers.

Additional responsibilities for the Authority

3.7 Some of the key changes for the Authority are as follows:

Change	Comment
All complaint and conduct matters against Chief Officers requiring investigation will be dealt with by the IOPC.	This is a welcome and helpful change and will offer a greater level of confidence to the public. Currently the Executive has to find a chief officer of a commensurate rank in a separate force to take on these investigations, which can prove to be difficult and time-consuming.
Local appeals currently handled by the Force will be dealt with by the BTPA.	Whilst this will create some additional work it will be complimentary to the Authority's existing governance and oversight of legitimacy. It also provides an extra layer of independence which will be welcomed by the public.
The Authority will be notified of all investigations, whether handled by the Force or IOPC, which have been ongoing for 12 months and provided with an explanation for the delay in completion.	This will also assist the Authority's oversight function.
The Authority will be responsible for appointing Legally Qualified Chairs (LQCs).	This will create some additional work as whilst the Authority is responsible for the recruitment of LQCs at present, in practice it then provides the list to the Force who make contact with LQC's as required for hearings. This is an extra step where a member of the executive will need to contact LQCs and appoint to individual hearings to ensure that a police force does not build a relationship with a particular chair.

3.8 The introduction of new processes will be required in order for the Authority to respond effectively to the additional responsibilities required of Authorities/Local Policing Bodies. The Executive is confident that these responsibilities can be discharged using the existing BTPA resources.

4. Recommendation

4.1 Members are asked to note the contents of this paper.

4.2 Members are asked to note that the new regulations will be presented to the Authority for approval once the consultation is complete.