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COMISIYNYDD
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POLICE AND CRIME
COMMISSIONER

02 December 2021

Update: Implementation of Recommendations from Police Super Complaint – Police Data Sharing for Immigration Purposes

I write to provide you with an update as per the request from HMICFRS, IOPC and College of Policing.

In my formal response dated 15th January 2021 to the report, I stated:

"Although Dyfed-Powys Police have not engaged in the sharing of such details, we recognise the need to cement this position in policy. Supporting the most vulnerable within our community remains our greatest focus. Through the Office of the Police and Crime Commissioner, Dyfed-Powys Police Force have strong pathways to commissioned specialist support services for victims of domestic abuse. This is supported through the governance of the Force investigations group and head of strategic criminal justice. We continue to use the excellent services of organisations such as the Black Association of Women Step Out (BAWSO) to improve trust and confidence in the support being offered to BAME and migrant communities. The progress of the recommendations set out within the report will sit with the Force Vulnerability Hub and be monitored at the Strategic Vulnerability Board. I will continue to scrutinise the progress with these recommendations through the appropriate forums"

I have since received a formal update on the recommendations within the report from the Force Lead on Vulnerability, DCI Richard Yelland. I have included below the extract from that formal response which has satisfied me that Dyfed-Powys Police have fully addressed the concerns raised and continues to do so:

Since the publication of this report there has been consideration of the recommendations and the evidence base at a national level. This has led to CC Martin Hewitt the Chair of the National Police Chiefs Council writing to Susan Wilcox, the lead for super complaints within the HMICFRS. The letter dated the 28th May 2021 sets out concerns in relation to each of the recommendations.

Those concerns have been considered along with; the originating report and individual policies and procedures within Dyfed Powys Police. I have set out below the NPCC joint response and the force position regarding each of the recommendations.

Rydym yn croesawu gohebiaeth yn y Gymraeg a'r Saesneg. Ni fydd gohebiaeth yn y Gymraeg neu'r Saesneg yn golygu oediad.

We welcome correspondence in Welsh and English. Corresponding in Welsh or English will not lead to a delay.

Recommendation 1 - As an interim measure, pending the outcome of recommendation 2, where officers only have concerns or doubts about a victim's immigration status, we recommend that they immediately stop sharing information on domestic abuse victims with Immigration Enforcement. Instead, police officers should link the victim to a third party that can provide advice and assistance, as set out in recommendation 4 (on the creation of safe reporting pathways). This applies where police officers have doubts about a victim's immigration status, not where they have evidence that an offence has been committed. The College of Policing will immediately develop guidance for the police service to clarify this aspect of practice.

The NPCC does not concur with the rationale and the assessment of the evidence for this recommendation. There is a real risk that if this recommendation is instituted, safeguarding and other policing opportunities will be missed and vulnerable people will be put at risk. At times police must act on joint operations with immigration enforcement to disrupt criminals such as people-traffickers and it will be necessary to share a victim's data as part of those operations. Its consequences and impact does not appear to have been considered within the recommendation. The House of Lords introduced an amendment to the DA Bill. This amendment was not accepted by Parliament, however the Home Office did commit to conduct a review of the legal and policy framework underpinning information data sharing and to consider establishing a 'firewall'. Following that review, a data-sharing code of practice between police and immigration enforcement will be drafted and laid before Parliament. This is also relevant to recommendation 3.

Dyfed Powys made the initial recommendation to the force policy. Following consideration and the impact assessment set out by the NPCC we are satisfied that this change to policy is not a necessary step. It remains that case that Dyfed Powys Police has not made any such referrals in line with the priority we place on first and foremost safeguarding the victim.

Recommendation 3 - With the objective of preventing harm to the public interest, develop a safeguarding protocol between the Home Office and the police service to guide responses to all migrant victims and witnesses of crime by the police service, the Home Office and other law enforcement agencies as relevant. The protocol should reflect the realities of victims' and witnesses' experiences, drawing on the expertise of the relevant specialist organisations for supporting victims with insecure immigration status. The NPCC will work with the Home Office as set out in the Domestic Abuse Act to develop the current guidance, especially in respect of safeguarding.

The NPCC have agreed that they will work with the Home Office as set out in the Domestic Abuse Act to develop the current guidance, especially in respect of safeguarding.

Dyfed Powys Police have established a delivery group to ensure that all aspects of the Domestic Abuse Act 2021 are implemented within the guidelines of the Act. We currently await guidance on the implementation of a significant proportion of the Act which focuses on victims. The National Vulnerability Action Plan (NVAP) sets out an action in relation to understanding the 'voice of the victim' which is relevant to this

recommendation. Dyfed Powys Police are working with Hwyl Dda Health Board and their newly established minority group outreach team to ensure we are maximising the feedback from communities. In addition through the Regional Violence Against Women Domestic Abuse and Sexual Violence (VAWDASV) group a member of BAWSO has been commissioned to improve the support and outreach for black and ethnic minority groups including those with unsettled immigration status.

Recommendation 4 - With reference to recommendation 1, and in consultation/collaboration with local or national specialist organisations, chief constables should take steps to ensure that all migrant victims and witnesses of crime are effectively supported through safe reporting pathways to the police and other statutory agencies.

The NPCC does not concur with the rationale and the evidence for this recommendation. Its consequences and impact does not appear to have been considered within the recommendation. This appears to be proposing a third-party national reporting pathway for immigration support, which is not within the police's remit. This is a matter for the Home Office in respect of people with uncertain immigration status and not the police service. Should the Home Office create such a pathway, the NPCC would work with the Home Office and safeguarding partners to address the spirit of the recommendation through existing governance frameworks. As with other recommendations in this report the NPCC does not accept the detailed solutions within the recommendations set out by HMICFRS. This is a matter for Home Office policy makers and the views of the HMICFRS, whilst respected, will be progressed within discussions at that time with the Home Office.

Dyfed Powys is in agreement with the NPCC position, however I have set out in the response to recommendation 3 how we are seeking national expertise to support the local partnership arrangements.

Recommendation 5 - With reference to recommendation 1, pending the developments outlined in other recommendations, and in consultation/collaboration with local or national specialist organisations, chief constables and police and crime commissioners should take steps, through the appropriate channels, to promote migrant victims' and witnesses' confidence in reporting crimes to the police through safe reporting pathways, without fear of prioritised immigration control.

The NPCC does not concur with the rationale and the evidence for this recommendation. Its consequences and impact does not appear to have been considered within the recommendation. It is unclear how this recommendation differs from the points set out in recommendation 4. If this recommendation is intended that Police and Crime Commissioners and Chief Constables should, with the assistance of local partners, communicate that there are safe reporting pathways that will not prioritise immigration status as the primary purpose, the NPCC is content to do so within the existing protocol. As per the response to recommendation 4, it is not for Police and Crime Commissioners nor Chief Constables to establish a national third-party reporting system for all migrant victims of crime. You will be aware of the current and intended changes in respect of victims' rights within which the NPCC will be working.

Set out in recommendation 3 are the specific actions currently being undertaken by Dyfed-Powys to build confidence through engagement.

I have been reassured that although the NPCC group have taken a clear stance in relation to this report the appropriate assessments have still been undertaken by Dyfed-Powys Police and there is evidence over focused work to address areas which it is appropriate for Dyfed Powys Police to do so.

I am encouraged by the work Dyfed-Powys Police is undertaking with Hwyl Dda Health Board and their newly established minority group outreach team to ensure we are maximising the feedback from communities and that a member of BAWSO has been commissioned to improve the support and outreach for black and ethnic minority groups including those with unsettled immigration status.

It is vitally important to me that we understand fully the role Dyfed-Powys Police play in supporting all victims and I am confident that the work Dyfed-Powys Police undertake meets those requirements.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Dafydd Llywelyn', written in a cursive style.

Dafydd Llywelyn
Police and Crime Commissioner