

Hampshire Police and Crime Panel

Protocol for the Informal Resolution Procedure Regarding Complaints made against the Police and Crime Commissioner

The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 mandated the statutory responsibility for Police and Crime Panels (PCP) to handle non-criminal complaints about the conduct of the Police and Crime Commissioner (PCC) and Deputy Police and Crime Commissioner (DPCC), where appointed.

Conduct in this regard may include but is not limited to actions and omissions, statements or procedures of, or undertaken by the PCC/DPCC, including the way decisions are taken. The PCP does not have the power to review the merits of any decisions taken by the PCC/DPCC, only whether the decision was taken properly in accordance with relevant procedures and any statutory requirements.

All complaints made to the PCP should clearly identify where the conduct of the PCC/DPCC has not met the complainant's expectations. The published code of conduct for the PCC can be accessed on the PCC's website <https://www.hampshire-pcc.gov.uk/wp-content/uploads/2016/08/ML-code-of-conduct.pdf>

Police complaint review process

Under the Police (Complaints and Misconduct) Regulations 2020 the PCC has responsibility for carrying out reviews, where they are the relevant review body for complaints against Hampshire Constabulary (the Constabulary) that are initiated and undertaken pursuant to the Police Reform Act 2002.

The PCP does not have the power to review individual decisions reached by the PCC and/or his office in respect of applications made to review the outcome of complaints undertaken as stated above under the Police Reform Act 2002 and is not the correct body of recourse to challenge such decisions made by the PCC and/or their office.

Complaints which are identified to be expressing dissatisfaction about the outcome of the complaint review process will not be recorded, in accordance with regulation 10(2) of the Elected Local Policing Bodies (Complaints and Misconduct) Regulations. For further information about the complaint review process please visit the website of the Police and Crime Commissioner for Hampshire <https://www.hampshire-pcc.gov.uk/>

Process

Initial recording of complaints received

The Chief Executive of the Office of the Police and Crime Commissioner (OPCC) will, within 10 clear working days, consider whether:

- a. the complaint is a complaint against the Police and Crime Commissioner;
- b. it is a complaint for which the Hampshire Police and Crime Panel is the relevant Police and Crime Panel;

- c. the complaint indicates the commission of a criminal offence by the PCC, in which case the complaint would be referred to the Independent Office of Police Conduct (IOPC), by the Chief Executive of the OPCC, as a potential serious complaint;
- d. the complaint is a complaint at all;
- e. or is a complaint relating to an operational matter of the Constabulary to be resolved in accordance with the complaints procedures of the Constabulary.

When, in accordance with the delegation to the Chief Executive of the OPCC, the decision has been made to record a complaint that will not subsequently be referred to the IOPC, the Chief Executive of the OPCC will:

- record the date of receipt;
- send a record of the complaint, to the complainant and to the person complained about (in the latter case, subject to any decision taken not to supply a copy of the complaint or to supply the complaint in a form which keeps anonymous the identity of the complainant or of any other person) and will include the contact details of the PCP's Complaints Sub-Committee (the sub-committee); and
- refer the record, and copies of all the associated paperwork, to the sub-committee This will be no later than two working days after the complaint has been recorded.

Whilst the recording of complaints is delegated by the PCP to the Chief Executive of the OPCC, the responsibility to record any given complaint may revert to the sub-committee with the agreement of the Chief Executive of the OPCC. In such circumstances the recording of the complaint will be made by the PCP's scrutiny officer, in consultation with the Chair of the sub-committee.

Non-Recording of Complaints

If, in consideration of points a-e (above), the Chief Executive of the OPCC reaches the view that action should not be taken under regulation 9 of the Elected Local Policing Bodies (Complaints and Misconduct) Regulations for notifying or recording the whole or any part of the complaint received, they will notify the PCP's scrutiny officer.

In such circumstances the PCP's scrutiny officer will, in consultation with the Chair of the sub-committee, review the complaint and if they are in agreement that the complaint, or part thereof, does not properly fall within the responsibility of the PCP and should not be recorded, either in whole or in part, shall notify the complainant in writing, of the following:

- the decision to take no action and, if that decision relates to only part of what was received, the part in question; and
- the grounds on which the decision was made.

Acknowledgement of complaints

On receipt of the recorded complaint, the PCP's scrutiny officer will:

- assess the complaint to ensure that it is complete, and that it clearly identifies the alleged conduct matter;
- refer incomplete or unclear complaints back to the Chief Executive of the OPCC seeking further information;
- consider whether the complaint has been satisfactorily dealt with and if so, consulting with the complainant, treat the complaint as withdrawn;
- write to the complainant, setting out timescales and providing details about the informal resolution procedure and give the complainant an opportunity to make further comments in support of their complaint (allowing them 14 clear calendar days to respond). Where the PCP's scrutiny officer believes that the circumstances of the case are such that the sub-committee may decide to treat the complaint as having been resolved, the complainant will be asked to provide their representations in this regard for the sub-committee to take into account; and
- write to the PCC/DPCC, setting out timescales and providing details about the informal resolution procedure; and giving them an opportunity to make comments in response to the complaint (allowing 14 clear calendar days to respond).

Serious Complaints

If, at any stage, the IOPC informs the PCP that they require the complaint to be referred to them, or if the Monitoring Officer, in consultation with the Chair of the sub-committee, determines that the complaint should be referred to the IOPC, the informal resolution process must be discontinued. The Monitoring Officer should only determine that the complaint should be so referred if matters come to light during the informal resolution process which indicates the commission of a criminal offence.

Disapplication

In some cases, the informal resolution procedure may be disappplied in respect of a complaint in accordance with Regulation 15 of the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 (the Regulations). If the PCP's scrutiny officer identifies that a complaint may be suitable for consideration for disapplication under part 4 of the Regulations, they will refer it to the PCP's Monitoring Officer.

- The Monitoring Officer, in consultation with the Chair of the sub-committee, will consider the suitability of the complaint for disapplication under part 4 of the Regulations.
- In the event that disapplication is determined to be appropriate in relation to a complaint, the Monitoring Officer will write to the complainant and the PCC,

notifying them of this decision and the complaint will be recorded as complete.

- In the event that only part of a complaint is determined to be suitable for disapplication, this will be notified to the complainant and the PCC in the notification letter, outlining those parts of the complaint to which disapplication will apply.

Any decision taken to disapply the informal resolution procedure in respect of a complaint, or part thereof, will be formally reported to the first meeting of the sub-committee following the date of the determination.

Meetings of the Sub-Committee

The PCP's Scrutiny Officer will convene a meeting of the Complaints sub-committee, normally to be held within 21 clear calendar days after the deadline for receipt of all comments to the complaint. The PCP's scrutiny officer will, compile a brief report for the sub-committee, setting out the pertinent details of complaint, recording any failure by the person complained about to comment on the complaint and making suggestions for the next steps.

- The sub-committee will first consider whether the complaint has been satisfactorily dealt with and, subject to any representations by the complainant, may decide to treat the complaint as having been resolved. In such a case, the sub-committee's reasons will be recorded and notified to the parties.
- While the sub-committee is prohibited from conducting an open investigation of the complaint, it does have the power to ask the PCC/DPCC for documents relating to the matters referred to in the complaint and may require the PCC/DPCC or an officer of the OPCC to attend a meeting of the sub-committee to answer questions. The sub-committee may also invite the complainant to provide further information for the purpose of clarity. In exercising these powers, the sub-committee will seek to ensure fairness and transparency within its proceedings and, following legal advice, will focus on matters which substantiate or clarify a point relating to the complaint, or response to the complaint.
- The sub-committee shall have regard to:
 - The Code of Conduct of the PCC;
 - Whether the complaint discloses a specific conduct failure on the part of the PCC, identifiable within the Code of Conduct of the PCC, or whether it relates to operational matters of the constabulary or operational policing matters within which the PCP has no authority;
 - The remedies available to it;
 - Any other relevant considerations.
- If, on considering the report, the sub-committee feels that the matter may be determined under the informal resolution procedure, it will decide its course of

action. In considering this action it shall have regard to the limits on investigation, referred to above.

- The sub-committee will consider whether to devise an action plan (to be drawn up by the PCP's scrutiny officer) and in so doing will take into account any applicable guidance issued by the Secretary of State and may also consider any guidance issued by the IOPC pursuant to section 22 of the Police Reform Act 2002 . Any such action plan will include an indicative timeframe.
- Any such action plan may include (for example):
 - An explanatory letter being written by an officer of the PCP (or on behalf of the sub-committee),
 - An explanatory letter being written by an officer of the OPCC,
 - A suggested change to OPCC policy; or
 - A request that an apology is tendered (no apology may be tendered on behalf of the person complained against unless that person has admitted the alleged conduct and agreed to the apology).
- The sub-committee will also decide whether it wishes to:
 - reconvene to take any steps identified in the action plan,
 - authorise any named individual (who may not be a PCC, a DPCC or the Chief Executive of the OPCC) to take any steps in accordance with the action plan; or
 - refer the matter to the PCP with recommendations regarding the action plan.
- Once the actions from the plan have been completed, the matter may be referred back to the sub-committee or an authorised individual may determine that the matter has been resolved. The PCP's scrutiny officer must make a record of the outcome of the informal resolution as soon as practicable after the process is completed, normally within three clear working days, and provide copies to the complainant and the PCC/DPCC. The matter will then be closed.
- No part of the record may be published by the Complaints Sub-Committee, other than that required under the Local Government (Access to Information) Act 1985, unless, having given the parties an opportunity to make representations about the proposed publication and having considered any such representations, the Complaints Sub-Committee considers that publication is in the public interest.
- A record of all complaints received by the PCP will be kept until 12 months after the PCC or deputy PCC, to whose conduct the complaint related, leaves the post.
- The PCP's scrutiny officer will prepare an update report to each annual general meeting of the Panel about all complaints considered in the preceding 12 months by the Complaints Sub-Committee, the action taken (including any obligations to act, or refrain from acting, that have arisen under the regulations, but have not

yet been complied with or have been contravened) and the outcome of the process.

- At any stage, the PCP's scrutiny officer may seek legal advice from the PCP's legal adviser.