

**LEICESTER, LEICESTERSHIRE AND RUTLAND  
POLICE AND CRIME PANEL**

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**REPORT OF THE COUNTY SOLICITOR**

**ARRANGEMENTS FOR DEALING WITH COMPLAINTS  
AGAINST THE POLICE AND CRIME COMMISSIONER**

**Purpose Of Report**

1. The purpose of this report is to establish arrangements for handling complaints made against the Police and Crime Commissioner, for delegation of different aspects of the procedure to be followed and for reporting to the Panel, both in respect of individual complaints and the operation of the arrangements generally.

**The Legislative Requirements**

2. The Police Reform and Social Responsibility Act 2011 places the responsibility for the handling of complaints about 'the conduct of relevant officer holders' in the hands of Police and Crime Panels. Regulations made in January 2012 (the 'Complaints Regulations') deal with arrangements for the initial handling of complaints, the investigation of serious complaints (i.e complaints alleging the commission of a criminal offence) by the Independent Police Complaints Commission (IPCC) and the resolution of other complaints by the Police and Crime Panel. Regulations made in November 2012 (the 'Delegation Regulations') allow for delegation of these functions by the Panel.
3. The Police and Crime Panel deals with complaints against 'relevant officer holders', being the Police and Crime Commissioner (PCC) and any Deputy Police and Crime Commissioners who may be appointed. The complaints must relate to 'conduct' and not, therefore, complaints about the role or responsibilities of the Commissioner, complaints about operational Police matters or relating to the quality of service which, whilst important to the PCC, are, at least in the first instance, matters for the Chief Constable. There will also be a distinction to be drawn between reports of a failure in service delivery and complaints specifically directed to the PCC which may be for failing to rectify such a problem.
4. As noted above, a complaint must be referred to the IPCC if it is about conduct which 'constitutes or involves, or appears to constitute or involve, the commission of a criminal offence' (extract from Home Office Guidance, attached as Appendix 1).

5. Comments have been made by some members of the Panel that it would be helpful to have arrangements in place for filtering complaints prior to any formal process in a similar way to that which has been adopted by many authorities under the new local authority regime governing members' code of conduct. The Complaints Regulations prescribe the circumstances in which a decision may be made that the complaint does not have to be handled in accordance with the processes in the regulations. Those circumstances are:-
- (a) a complaint by a member of the PCC's staff arising from the staff member's work;
  - (b) a complaint which is more than 12 months old where there is no good reason for the delay or the delay would be likely to cause injustice;
  - (c) a complaint about conduct that is already the subject of another complaint;
  - (d) an anonymous complaint;
  - (e) a complaint which is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints;
  - (f) a repetitious complaint, i.e. one which is substantially the same as a previous complaint or concerns substantially the same conduct as a previous conduct matter.

Other complaints will have to be dealt with in accordance with the requirements of the legislation.

6. The Act makes it clear that the Regulations 'may not provide for the investigation of such complaints; but ..... must provide for Police and Crime Panels to engage in informal resolution of such complaints.' The Complaints Regulations state that, although there is no power to investigate complaints, the person complained about can be required to provide information or documents or attend to answer questions or give evidence. The complainant will also have an opportunity to comment further on the complaint made. It is most unusual for a Complaints Procedure to provide that there can be no investigation of a complaint and this would effectively preclude obtaining information or evidence from third parties.
7. The outcome of the process is described as 'informal resolution' without that phrase being further defined. It is questionable whether any finding of fault or responsibility can be made and there are no penalties which can be imposed. There is specific provision that the Police and Crime Panel is unable to tender, on behalf of the person complained against, any apology for his or her conduct unless that person has admitted the conduct and agreed to the apology.

8. The Complaints Regulations make provision for the Police and Crime Panel delegating all or any of its powers and duties under those Regulations, with the exception of informal resolution to the Chief Executive of the Police and Crime Commissioner. This provision gave rise to considerable criticism on the basis that it would be difficult for the Chief Executive Officer of the Police and Crime Commissioner, appointed by the Commissioner, to operate in an appropriately independent manner. The Delegation Regulations allow for delegation of all of the responsibilities in relation to complaints to a Subcommittee or 'an officer of any local authority in the Police area'. It is perhaps easiest to consider the latter phrase as allowing for delegation to the Monitoring Officer of the servicing authority, a point made in the attached Home Office Guidance.
9. The Complaints Regulations also contain provisions relating to obtaining and preserving evidence relating to the conduct in question, referral to the IPCC, referral from the IPCC to the Panel and general obligations in relation to notification and recording of complaints. It is proposed that these procedural matters be delegated to the County Solicitor. The process which the Panel may wish to follow in relation to complaints is discussed further below.

### **Stages In The Complaints Process**

10. It is proposed that the first point of contact for receiving a complaint should be the County Solicitor. The IPCC has requested this information and, at its meeting on 23<sup>rd</sup> November 2012, the Panel agreed to provide the names of the County Solicitor and the Chief Executive officer of the Commissioner, who is happy to perform this role as a 'back up' to the County Solicitor.
11. Discussion at a national level has emphasised the option of establishing a 'triage' system for dealing with complaints. This would involve a staged process of deciding:-
  - (a) whether a complaint within the meaning of the legislation has actually been made relating to the conduct of the PCC;
  - (b) if that is the case, whether the matter should be referred to the IPCC;
  - (c) if it is not to be so referred, whether any of the exceptions set out in Paragraph 5 above apply; and
  - (d) if not, how the matter should best proceed to the next stage of informal resolution.

It is proposed that responsibility for this stage of the procedure should be delegated to the County Solicitor who would normally liaise with the Chief Executive Officer of the PCC and, if the Panel considers this

appropriate, consult with the Chairman of the Panel (or another member of the Panel if the Panel considers it appropriate to nominate an individual to perform this role).

12. As noted above, it is proposed that procedural requirements relating to the preservation of evidence, notification, recording and referral of complaints be delegated to the County Solicitor.
13. No recommendation is made in this report as to where the responsibility for carrying out the informal resolution of a complaint should lie. The Panel is asked to consider whether, in light of the informal nature of the process and the absence of sanctions, responsibility should be delegated to:-
  - (a) a Subcommittee;
  - (b) an individual member of the Panel;
  - (c) the County Solicitor; or
  - (d) any other person who may be agreed as being appropriate to deal with the particular complaint given the context and the nature of the complaint in any individual case; this would allow, in appropriate cases, the appointment of a mediator or other independent person.

### **Process For Appeal**

14. There is no requirement in the Regulations for any appeal process. The nature of a process of informal resolution without a specific penalty does not lend itself readily to an appeal process and members' views are sought as to whether a further stage should be included in the process.

### **Reporting Arrangements**

15. It is proposed that the Panel should be made aware of complaints and their outcomes on a regular basis. The Panel is asked to decide how frequently such reports should be received.
16. It is proposed that, in any event, a report be presented to the first meeting of the Panel after the County Council elections in May 2013 on the operation of the new procedures with a view to agreeing any necessary changes and finalising the arrangements to be followed.

### **Communications**

17. A website for the Police and Crime Panel has been created by the County Council and reference will be made on that site to the Complaints Procedure and the arrangements for contacting the County

Solicitor. The Police and Crime Commissioner's website will also contain this information.

### **Recommendations**

18. The Panel is asked to agree to delegate authority to the County Solicitor to:-
  - (a) act as the first point of contact for complaints;
  - (b) make decisions as to whether (i) a complaint has been made which requires resolution under the complaints procedures; (ii) whether that complaint should be referred to the IPCC; (iii) whether the complaint should be subject to the informal resolution process; and (iv) to make arrangements for the process of informal resolution;
  - (c) produce such further procedures, notes of guidance and forms as may be helpful to assist in the operation of the process and the provision of information to complainants;
  - (d) report to the Panel on the first meeting after the County Council elections in May 2013 on the operation of the complaints processes.
  
19. The Panel is asked to:
  - (a) decide how to arrange for the informal resolution of complaints and any arrangements for delegation of that responsibility;
  - (b) decide upon a method and frequency of reporting to the Panel the outcome of individual complaints.

### **Officer to Contact**

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