

Arrangements for Handling Complaints against the Police and Crime Commissioner

Background

1. 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 (the 'Panel'). Regulations made in November 2012 (the 'Delegation Regulations') allow for delegation of these functions by the Panel.

2. 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.

3. 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. (The processes to be followed by the Panel are as set out in the attached document.) 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.

In these circumstances, the Panel may decide not to deal with the matter in accordance with its processes as set out in the attached document, to take no action or to deal with the matter in whatever manner the Panel sees fit.

4. 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.

5. Informal resolution exists in the current complaints system for police officers, as a means of dealing with a complaint by solving, explaining, clearing up or settling the matter directly with the complainant. That system states that:

‘Local resolution can be a proportionate, timely and effective way of resolving many complaints. It is a simple and flexible way for people to tell the police what happened and find out why it happened. The complainant’s acceptance of the outcome should be the objective of any local resolution process.’
6. The Complaints Regulations make provision for the 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. 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’.
7. 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.
8. The Local Government Ombudsman (LGO) has jurisdiction over Police and Crime Panels and any complaints process should have regard to LGO guidance and principles. The LGO states that the principles for effective complaint handling are: accessibility; communication; timeliness; fairness; credibility; and accountability. The fundamental purpose of a complaints system is to put right what has gone wrong and to learn from it.
9. It was agreed at the meeting of the Panel on 20 December that the first point of contact for receiving a complaint should be the County Solicitor and that the Chairman and Vice-Chairman act as second or reserve points of contact.
10. It was also agreed that the County Solicitor should have authority to make decisions, in consultation with the Chairman of the Panel if appropriate, as to whether (1) a complaint has been made which requires resolution under the complaints procedures; (2) that complaint should be referred to the Independent Police Complaints Commission; (3) the complaint should be subject to the informal resolution process; and (4) to make arrangements for the process of informal resolution.
11. The Panel delegated authority to the County Solicitor, in consultation with the Chairman and Vice-Chairman, to:
 - i. resolve complaints informally, or

- ii. arrange for a meeting of a sub-committee to be drawn from the full membership of the Panel, to resolve complaints informally.

Process for handling complaints against the Police and Crime Commissioner (PCC) and any Deputy Police and Crime Commissioner (DPCC) that may be appointed.

Initial complaint handling

1. The Police and Crime Panel (the 'Panel') will publish on its website details of this complaints process, including the contact details of the County Solicitor as the person to whom complaints should be directed and a complaint form. This can be found at: www.leics.gov.uk/policeandcrimepanel.htm.
2. The Office of the Police and Crime Commissioner (OPCC) will publish on its website and provide to members of the public who request the information, the name and address of the County Solicitor as the person to whom complaints should be directed.
3. All complaints will be received in the first instance by the County Solicitor (or, in his absence, the Chairman or Vice-Chairman of the Panel) and a record (the 'complaints database') of all complaints, purported complaints and conduct matters received will be maintained. Complaints should be submitted in writing or by completing the online form.
4. The County Solicitor, in consultation with the Chairman of the Panel (or Vice-Chairman) if appropriate, will consider such reports and decide whether: (a) a complaint has been made which requires resolution under the complaints procedures; (b) that complaint should be referred to the Independent Police Complaints Commission (IPCC); (c) the complaint should be subject to the informal resolution process; and (d) to make arrangements for any process of informal resolution. The complainant will be notified of the outcome of this consideration.
5. If the County Solicitor considers that the complaint does not have to be handled in accordance with the processes in the regulations, because it falls into one of the following categories:
 - (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;

the County Solicitor, in consultation with the Chairman or Vice-Chairman of the Panel, as appropriate, will decide what action to take, if any. The County Solicitor will notify the complainant of that decision and the grounds on which that decision was made and also of their right to complain to the Local Government Ombudsman (LGO).

6. If a complaint is not considered to be a matter for this Complaints Process and does not need to be referred to the IPCC but should be referred to another body, the County Solicitor will make that referral and inform the complainant of this decision and the grounds on which it was made and also of their right to appeal to the LGO.
7. If the complaint is a matter for this Complaints Process, a copy of the record of the complaint will be supplied to the complainant and, if appropriate, to the person complained against. A decision not to disclose the complaint to the person complained about shall be made by the County Solicitor, in consultation with the Chairman of the Panel (or Vice-Chairman) if appropriate.
8. The County Solicitor will also be responsible for other actions at the initial stage of the complaints process, including:
 - (a) Liaison with the OPCC and IPCC to ensure that complaints are identified to the Panel and that the Panel is informed of any and all matters falling within the provisions of the Complaints Regulations.
 - (b) Securing that all steps as are appropriate and within the scope of the powers of the Panel are taken for obtaining and preserving evidence relating to the incident in question.
 - (c) Ensuring that arrangements for recording complaints and conduct matters (including those arising in civil proceedings), for notification to another Police and Crime Panel, if that is the relevant body to consider a complaint, and for referral to the IPCC are established and followed.
9. In discharging these responsibilities, the County Solicitor will maintain a Complaints Database of every complaint or purported complaint made to the Panel, every conduct matter recorded by it and every exercise of a power or performance of a duty under the relevant regulations.

Withdrawal of complaints

10. The complainant can withdraw or discontinue their complaint by providing a signed written notification. This will be recorded on the Complaints Database and the relevant parties notified.
11. If written notification was not provided, the County Solicitor will write to the complainant to ascertain if he or she wishes to withdraw the complaint. If the complainant responds and indicates that they do wish to withdraw the complaint, or, if there is no response within 21 days, the complaint will be treated as if a signed written notification of withdrawal has been received.

12. If the original complaint was serious enough to be considered a conduct matter and appropriate for referral to the IPCC, the Panel may decide that the complaint should not be treated as withdrawn but rather continue with the referral. This decision will be made by the County Solicitor in consultation with the Chairman of the Panel.
13. If the complaint has already been referred to the IPCC (and not yet referred back to the Panel), the IPCC will be notified by the County Solicitor of the withdrawal. The IPCC will then determine if the withdrawn complaint should be treated as a conduct matter and will inform the Panel of its decision.

Investigation of complaints

14. It should be noted that, under Regulation 28(7), a complaint cannot be formally investigated; in particular, the Panel cannot seek corroborating witness statements. However, the person complained against can be required to provide information or documents, or appear before the Panel or a sub-committee of the Panel. That person will be offered the chance to comment on the complaint: should they choose not to comment, this will be recorded. The complainant will be given an opportunity to respond to any information or comment provided by the person complained against.

Informal resolution

15. Informal resolution may be conducted by the County Solicitor (in consultation with the Chairman and Vice-Chairman) of the Panel, or by a sub-committee to be drawn from the full-membership of the Panel. This flexible process will be adapted to the needs of the complainant, whose agreement with the steps to be taken will be secured, and the individual complaint. Examples of informal resolution are:
 - Resolution by telephone after the complaint has been recorded.
 - Providing information.
 - Concluding the matter through correspondence explaining the circumstances.
 - Individual communication between the complainant and the person complained about, via the County Solicitor.
 - An apology made by the person complained about.
 - A face to face meeting between the complainant and the person complained about, mediated by the County Solicitor or another person agreed by all parties.
 - Identification of 'lessons to be learnt' and changes to practice communicated and explained to the complainant.
16. A record of the procedure followed and its outcome will be made and a copy of that record sent to the complainant and the person complained against.

Publication

17. Records of complaints shall only be published if the complainant and the person complained against have been given the opportunity to make representations and, having considered those representations, the Panel is of the opinion that publication would be in the public interest.
18. The provisions of the Freedom of Information Act and Data Protection Act will apply to requests for release of information relating to complaints, including disclosure of the contents of the Complaints Database.

Appeal

19. The nature of informal resolution, without a specific penalty, does not lend itself readily to an appeal process. The LGO has jurisdiction over the Panel and as such would be the body to which a complainant will be directed if they are unhappy with how their complaint was handled.

Referral of criminal matters

20. All serious complaints or conduct matters will be referred to the IPCC within 24 hours of receipt, using IPCC Referral Form 7.1. Such complaints will first be recorded on the Complaints Database. The complainant, if there is one, and, if appropriate, the person complained against will be informed that the matter has been referred.
21. The IPCC will decide whether or not it is necessary for any such complaint or conduct matter to be investigated and will notify the Panel in writing of its decision.
22. The IPCC may determine that an investigation should be discontinued. If this happens, it may make certain directions to the Panel. If it does, the Panel will comply with any such directions.
23. If the IPCC decides a complaint or conduct matter does not need to be investigated, it will be referred back to the Panel to be dealt with. This will be notified to the complainant and the person complained against by the IPCC.
24. The Panel will provide the IPCC with any information, documents, or evidence required by it within the set timescales, wherever possible, and, if not, as soon as is practicable. The Panel will allow persons nominated by the IPCC access to any premises occupied for the Panel's purposes.
25. If matter is referred to the Crown Prosecution Service (CPS), the IPCC will notify the Panel. It will also be the IPCC that notifies the Panel and any other person entitled to be kept informed if the CPS makes a decision to bring any criminal proceedings.
26. The IPCC will publish its investigation report and send a copy to the Panel. (The harm test will be applied to the report prior to publication and disclosure

and the IPCC may delay sending out and publishing a report, or withhold part of a report, if it considers that it is necessary to do so.)

Reporting Arrangements

27. The County Solicitor will report on a bi-annual basis to the Panel on the numbers of complaints received, handled and their outcomes.

Quick Guide to the Process for Complaints against the Police and Crime Commissioner

Background

1. The Police and Crime Panel has overall responsibility for dealing with all complaints against the Police and Crime Commissioner (PCC) and any Deputy Police and Crime Commissioners (DPCC). The Panel has delegated responsibility for initial consideration of any complaints received to the Monitoring Officer of Leicestershire County Council – the County Solicitor. Serious complaints will be referred on to the Independent Police Complaints Commission (IPCC).

Notification and recording of complaints

2. You should send your complaint to the County Solicitor at Leicestershire County Council. Complaints should be made in writing: an online form is available from the Panel's website – www.leics.gov.uk/policeandcrimepanel.htm. Wherever possible, we will acknowledge receipt within 5 working days and conclude consideration within 40 working days (if dealt with through local informal resolution).
3. All complaints will be recorded and you and, if appropriate, the person complained against will be provided with a copy of that record.

Initial consideration of complaints

4. The County Solicitor, in consultation with the Chairman of the Panel (or Vice-Chairman) if appropriate, will consider your complaint and decide if it should:
 - a) be resolved using this complaints procedure
 - b) be resolved in whatever manner the Panel thinks fit
 - c) be referred to the IPCC
 - d) be referred to another body or
 - e) to take no action at all.

You will be informed of the outcome of this consideration and the reasons for the decision.

5. You should note that complaints falling into the following categories are likely to result in a decision to take no action:
 - (a) a complaint by a member of the Commissioner's staff arising from their 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.

Withdrawal of complaints

6. You can withdraw or discontinue your complaint at any time by notifying the Panel in writing (please address it to the County Solicitor). However, please note that, if the complaint is serious enough the Panel may decide not to treat it as withdrawn and may still refer the matter to the IPCC.

Investigation of complaints

7. Please note that the Regulations do not allow for a formal investigation, such as seeking witness statements, to be carried out by the Panel. However, the PCC (or person complained about) can be requested to provide information and documents and/or appear before the Panel (or sub-committee of the Panel) and will be offered the chance to comment on the complaint. You will then have the opportunity to respond to any such comments.

Informal resolution

8. If it is decided that a complaint should be subject to this complaints procedure, it must be dealt with by informal resolution: a flexible process that may be adapted to the needs of the complainant and the individual complaint.
9. Depending on the individual circumstances, the informal resolution may be conducted by the County Solicitor or by a sub-committee of the Panel.
10. Examples of information resolution are:
 - Resolution by telephone after the complaint has been recorded.
 - Providing information.
 - Concluding the matter through correspondence explaining the circumstances.
 - Individual communication between the complainant and the person complained about, via the County Solicitor.
 - An apology made by the person complained about.
 - A face to face meeting between the complainant and the person complained about, mediated by the County Solicitor or another person agreed by all parties.
 - Identification of 'lessons to be learnt' and changes to practice communicated and explained to the complainant.
11. A record of the procedure followed and its outcome will be made and a copy of that record sent to you and, if appropriate, the person complained against.

Publication

12. Records of complaints shall only be published if the complainant and the person complained against have been given the opportunity to make representations and, having considered those representations, the Panel is of the opinion that publication would be in the public interest. However, the decision reached and the subject matter of the complaints may be published at a later date, in the light of the requirements of the Freedom of Information or Data Protection legislation.

Appeal

13. The nature of informal resolution, without a specific penalty, does not lend itself readily to an appeal process. However, the activities of the Panel fall under the jurisdiction of The Local Government Ombudsman (LGO) and, if you are unhappy with how we have handled your initial complaint, you can complain to them - www.lgo.org.uk/.

Referral of criminal matters

14. All serious complaints or conduct matters (i.e. those that might involve the commission of a criminal offence) will be referred to the IPCC within 24 hours of receipt. Such complaints will first be recorded on the Complaints Database. The complainant, if there is one, and, if appropriate, the person complained against will be informed that the matter has been referred.
15. The IPCC will decide whether or not it is necessary for any such complaint or conduct matter to be investigated.
16. If the IPCC decides a complaint or conduct matter does not need to be investigated, it will refer it back to the Panel to deal with it. The IPCC will keep you inform the person complained against informed of this.
17. If the matter is referred to the Crown Prosecution Service (CPS) and they decide to prosecute, the IPCC will notify the Panel and any other person entitled to be kept informed.
18. The IPCC will publish any investigation report and send a copy to the Panel. This will be subject to the IPCC's 'harm test' prior to any such publication and, if it considers that it is necessary to do so, it may delay publishing or withhold part of a report.

Reporting Arrangements

19. The County Solicitor will report on a bi-annual basis to the Panel on the numbers of complaints received, handled and their outcomes.

Further information can be found in the Process for handling complaints against the Police and Crime Commissioner and Deputy Police and Crime Commissioner that may be appointed, at www.leics.gov.uk/policeandcrimepanel.htm.

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