

## Hampshire Police and Crime Panel

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

#### *Initial recording of complaints received*

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

- the complaint is a complaint against the Police and Crime Commissioner (PCC) ~~or~~
- It is a complaint for which the Hampshire Police and Crime Panel (PCP, the Panel) is the relevant Police and Crime Panel,
- 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
- the complaint is a complaint at all;
- or is a complaint relating to an operational matter of Hampshire Constabulary (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 Office of the PCCOPCC the decision has been made to record a complaint that will not subsequently be referred to the Independent Office for Police Conduct (the IOPC), the Chief Executive of the Office of the PCCOPCC will:

- Record the date of receipt and ensure that the complaint has been made on the Complaints Form at Annex 1
- send a record of the complaint, the Complaints Form, 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 Panel's Police and Crime Panel's Complaints Sub-Committee (the sub-committee scrutiny officer); and
- refer the record, the Complaints Forms, and copies of all the associated paperwork, the sub-committee to the Panel's scrutiny officer. This will be no later than two working days after the complaint has been recorded.

Whilst the recording of complaints is delegated by the Panel 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 Panel's scrutiny officer, in consultation with the Chair of the sub-committee.

### Serious Complaints

- If, at any stage, the IOPC informs the Panel 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.

### *Acknowledgement of complaints*

On receipt of the complaint, the Panel'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 Office of the PCC seeking further information.
- Consider whether the complaint has been satisfactorily dealt with and if so, consulting with the complainant, to treat the complaint as withdrawn.
- write to the complainant, setting out timescales and providing details about the informal resolution procedure; and giving the complainant an opportunity to make further comments in support of his/her complaint (allowing him/her 14 clear calendar days to respond). Where the Panel's scrutiny officer believes that the circumstances of the case are such that the Complaints Sub-Committee may decide to treat the complaint as having been resolved, he/she will ask the complainant will be asked to provide his/her representations in this regard for the Complaints Sub-Committee to take into account; and

write to the person complained about, setting out timescales and providing details about the informal resolution procedure; and giving him/her an opportunity to make comments in response to the complaint (allowing him/her 14 clear calendar days to respond).

### *Disapplication*

In appropriate cases, the informal resolution procedure may be disapplied 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 Panel's scrutiny officer identifies that a complaint may be suitable for consideration for disapplication of part 4 of the Regulations, they will refer it to the Panel's Monitoring Officer.

- The Monitoring Officer, in consultation with the Chair of the ~~S~~<sub>c</sub>Committee, will consider the suitability of the complaint for disapplication of 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 where upon 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 ~~Sub-Committee at the first meeting of the S~~<sub>c</sub>Committee Meeting following the date of the determination.

#### *Meetings of the Sub-Committee*

The Panel's Scrutiny Officer will convene a meeting of the Complaints ~~S~~<sub>c</sub>Committee, normally to be held within 21 clear calendar days after the deadline for receipt of all comments to the complaint. The Panel's scrutiny officer will, ~~taking advice from the legal adviser,~~ compile a brief report for the ~~Complaints Sub-~~<sub>c</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 ~~Complaints Sub~~<sub>c</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 ~~Complaints Sub~~<sub>c</sub>Committee's reasons will be recorded and notified to the parties.
- While the ~~Complaints Sub~~<sub>c</sub>Committee is prohibited from conducting an open investigation of the complaint, it does have the power to ask, of the person complained against, for documents relating to the matters referred to in the complaint and may require the ~~OPCC or an officer of the OPCC~~ to attend a meeting of the ~~S~~<sub>c</sub>Committee to answer questions. The ~~Complaints S~~<sub>c</sub>Committee may also invite the complainant to provide further information for the purpose of clarity. In exercising these powers, the ~~Complaints S~~<sub>c</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 ~~Complaints S~~<sub>c</sub>Committee shall have regard to:
  - The Code of Conduct of the ~~Police and Crime Commissioner PCC~~;
  - Whether the complaint discloses a specific conduct failure on the part of the ~~Police and Crime Commissioner PCC~~, identifiable within the Code of Conduct

- of the ~~Police and Crime Commissioner~~PCC, or whether it relates to operational matters of the constabulary, ~~and or~~ operational policing matters in which the Police and Crime Commissioner has no authority;
- The remedies available to it;
  - All other relevant considerations.
- If, on considering the report, the ~~Complaints Subsub-c~~Committee feels that the matter needs to 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 ~~Complaints Subsub-c~~Committee will consider whether to devise an action plan (to be drawn up by the Panel'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 on local resolution. 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 Panel (or on behalf of the ~~Complaints Subsub-committee 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 ~~Complaints Subsub-c~~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 ~~Office of the~~PCC) to take any steps in accordance with the action plan; or
    - refer the matter to the Panel recommending that the identified action be taken.
  - Once the actions from the plan have been completed, the matter may be referred back to the ~~Complaints S~~sub-cCommittee or an authorised individual may determine that the matter has been resolved. The Panel's scrutiny officer must make a record of the outcome of the informal resolution as soon as practicable, normally within three clear working days, after the process is completed and provide copies to the complainant and the person complained against. 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.
  - The Panel'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.
- ~~If, at any stage, the IOPC informs the Panel that they require the complaint to be referred to them, or if the Complaints Sub-Committee decides that the complaint should be referred to the IOPC, the informal resolution process must be discontinued. The Complaints Sub-Committee should only decide 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, thus leading to the earlier decision as to whether or not the complaint was a serious complaint being reversed.~~
- ~~At any stage, the Panel's scrutiny officer may seek legal advice from the Panel's legal adviser.~~