



Protocol for the Informal Complaint Resolution Procedure

N.B. A list of Acronyms and Abbreviations used within this Protocol can be found at Appendix 1

The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 (the Regulations) mandate the statutory responsibility for the Police and Crime Panel (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 or complaints against officers of the Office of the Police and Crime Commissioner (OPCC)

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/transparency/policy-and-governance/code-of-conduct>

The PCP have, in accordance with paragraph 28(3) of the regulations, appointed a Complaints Sub-Committee (the Sub-Committee) who have delegated powers and responsibility, on behalf of the Panel, to secure the informal resolution of complaints. The regulations further provide that the complaint may be remitted at any time to the Panel as a whole (whether at the request of the appointed sub-committee or authorised person, the complainant or the person complained against, or otherwise) if the Panel is of the opinion that this will lead to a more satisfactory resolution of the complaint.

At all stages of the process, from initial receipt and assessment through to recording and conclusion, all communication with the PCC / DPCC (or their officers), the complainant or any other party, will make clear who it is intended for, the purpose of that communication and any associated timescales.

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 and Isle of Wight 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 their 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. Any complainant dissatisfied with the decision reached in the review of their complaint may only seek to address this through a Judicial review and they are encouraged to seek independent legal advice from a qualified legal professional.

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 Regulations. For further information about the complaint review process please visit the PCCs website <https://www.hampshire-pcc.gov.uk/>

Recording and acknowledgement of complaints

Initial receipt of complaints

Upon receipt of a complaint the Democratic Services Officer to the Panel (DSO) will, in consultation with the Chairman of the Sub-Committee consider whether:

- a. the complaint is complete, and clearly identifies the alleged conduct matter. Further information will be sought from the complainant, by the DSO, for any incomplete or unclear complaints.
- b. the complaint is a complaint against the PCC or DPCC for Hampshire and the Isle of Wight;
- c. it is a complaint for which the Hampshire and Isle of Wight Police and Crime Panel is the relevant PCP;
- d. the complaint indicates the commission of a criminal offence by the PCC/DPCC, in which case the complaint would be referred to the Monitoring Officer to the PCP (MO) to determine referral to the Independent Office of Police Conduct (IOPC), as a potential serious complaint;
- e. the complaint is a complaint at all;
- f. it is a complaint relating to an operational matter of Hampshire and Isle of Wight Constabulary, in which case it would be referred, with the complainant's

consent, to Hampshire Constabulary's Professional Standards Department to be resolved in accordance with the complaint procedures of the Constabulary.

- g. consider whether the complaint has been satisfactorily dealt with and if so, consulting with the complainant, treat the complaint as withdrawn;

A notification will be sent to the PCC/DPCC upon receipt of a complaint against them, which will include a copy of the complaint and the name of the complainant, except where a request is made to treat a complaint, or part thereof anonymously (see below).

Requests for Confidentiality/Suppression of complaint details

The regulations allow for complaints made against the PCC/DPCC to be handled anonymously by the Panel. All complainants, when submitting a complaint, will have the opportunity to request that their identity be treated with anonymity.

Requests for anonymity or requests for suppression of complaint details will not automatically be granted. All such requests will be considered by the MO, who will determine whether keeping anonymous the identity of the complainant would impact upon the Sub-Committee's ability to determine the complaint under the protocol. The MO will write to the complainant to confirm whether the request for anonymity is granted.

When a request for anonymity cannot be granted, the complainant will usually be offered the opportunity to amend or withdraw their complaint, before any notification is made to the PCC/DPCC.

Any decision taken to not provide a copy of a complaint to the PCC/DPCC or to provide anonymity to the complainant or any other person, will be reported to the Sub-Committee.

Recording of Complaints

In consideration of points a-g above, and within 10 clear working days of receipt of the complaint, the DSO will, in consultation with the Chairman of the Sub-Committee determine whether the complaint should be recorded as a complaint in accordance with regulation 9(5) of the Regulations. The DSO may request information from the PCC and their office to clarify matters raised in the complaint, where it would assist the recording decision and may also seek legal advice from the MO.

Where the decision has been made to record a complaint that will not subsequently be referred to the IOPC, the DSO will:

- record the date of receipt of the complaint;
- send a record of the complaint, to the complainant, inviting them to make further comments in support of their complaint (with 10 clear working days to respond). Where the DSO 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:
- send a copy of the complaint (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) to the PCC/DPCC, setting out timescales and providing details about the informal resolution procedure and inviting them to make comments in response to the complaint (with 10 clear working days to respond).

Non-Recording of Complaints

If, in consideration of points a-g (above), the DSO, reaches the view that action should not be taken under regulation 9 of the Regulations for notifying or recording the whole or any part of the complaint received, as it does not properly fall within the responsibility of the PCP, they will refer the matter to the MO.

The MO, in consultation with the Chairman of the Sub-Committee, will determine whether the complaint should be recorded as such. If it is agreed that action shall not be taken under regulation 9, the MO shall notify the complainant and PCC/DPCC 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.
- Any decision taken not to record a complaint, or part thereof, will be formally reported to the first meeting of the Sub-committee following the date of the determination.

Potentially Serious Complaints

Serious complaints are those which allege the commission of a criminal offence by the PCC/DPCC. If, at any stage, the IOPC informs the PCP that they require the complaint to be referred to them, or if the MO, in consultation with the Chair of the Sub-Committee, determines that the complaint should be referred to the IOPC as a potentially serious complaint, the informal resolution process must be discontinued.

Disapplication of the Regulations

In some cases, the informal resolution procedure may be disappplied in respect of a complaint in accordance with Part 2, paragraph 15 of the Regulations. If the DSO identifies that a complaint may be suitable for consideration for disapplication under part 2 of the Regulations, they will refer it to the MO.

- The MO, in consultation with the Chair of the Sub-Committee, will consider the suitability of the complaint for disapplication under part 2 of the Regulations.
- In the event that disapplication is determined to be appropriate in relation to a complaint, the MO will write to the complainant and the PCC/DPCC, 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/DPCC 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 DSO will convene a meeting of the Sub-Committee, normally to be held within 15 clear working days after the deadline for receipt of all comments to a recorded complaint. The DSO will compile a brief report for the Sub-Committee, setting out the pertinent details of complaint and recording any failure by the person complained about to comment on the complaint.

These meetings will be held in public, with the Sub-Committee to agree at each meeting to any exclusion of the press and public, in accordance with Part 1 of Schedule 12A of the Local Government Act 1972.

At its meeting, 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.

- In determining the complaint, the Sub-Committee shall have regard to:
 - The Code of Conduct of the PCC/DPCC;
 - Whether the complaint discloses a specific conduct failure on the part of the PCC/DPCC, identifiable within the Code of Conduct, 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, with regard to the limits on investigation referred to above.
- The Sub-Committee will consider whether to devise an action plan 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 a number of recommendations (for example):
 - An explanatory letter being written by the DSO (on behalf of the Sub-Committee),
 - An explanatory letter being written by the PCC (or by an officer of the OPCC on their behalf),
 - A suggested change to OPCC policy; or
 - A request that an apology is tendered (no apology may be tendered on behalf of the PCC/DPCC 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,

- delegate authority to any named individual (who may not be the PCC, DPCC or the Chief Executive of the OPCC) to take any steps in accordance with the action plan; or
 - refer the matter to the full 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 to determine whether the matter has been resolved. The DSO 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 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 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 DPCC, to whose conduct the complaint related, leaves the post.
 - The DSO will prepare an update report to each annual general meeting of the Panel providing an overview of all complaints activity in the preceding 12 months, outlining any 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).
 - At any stage, the DSO may seek legal advice from the MO/legal adviser.

Unreasonable complainant behaviour

The PCP is committed to providing a high-quality service at all times to members of the public when dealing with complaints made against the PCC/DPCC.

Usually, complaints reviewed by the Sub-Committee are subject to a straightforward process, but in a small number of cases complainants may begin to pursue their cases in a way that can impact on the Sub-Committee's ability to review the complaint or unfairly take officers supporting the Sub-Committee away from their other duties. Similarly, complainants who have had their complaints resolved by the Sub-Committee may continue to pursue their complaint, or request outcomes that the Sub-Committee is not capable or is unwilling to grant.

Where the Sub-Committee considers a complainant's behaviour to be unreasonable in may be necessary to apply the [Guidance note on the management of unreasonable complainant behaviour](#).

Appendix 1

Acronyms and Abbreviations used within this protocol

<i>Acronym</i>	<i>Meaning</i>
DPCC	Deputy Police and Crime Commissioner (for Hampshire and the Isle of Wight)
DSO	Democratic Support Officer to the PCP
IOPC	Independent Office of Police Conduct
MO	Monitoring Officer to the PCP
OPCC	Office of the Police and Crime Commissioner
PCC	Police and Crime Commissioner (for Hampshire and the Isle of Wight)
PCP	(Hampshire and Isle of Wight) Police and Crime Panel

<i>Abbreviation</i>	<i>Meaning</i>
The Constabulary	Hampshire and Isle of Wight Constabulary
The Regulations	The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012
The Sub-Committee	(PCP) Complaints Sub-Committee

Informal Complaint Resolution Procedure – Flow Chart

