



## Guidance Note on the management of unreasonable complainant behaviour

### 1 Introduction

- 1.1 The Hampshire Police and Crime Panel (hereafter referred to as “the Panel”) is committed to providing a high quality service at all times to members of the public when dealing with complaints made against the Police and Crime Commissioner for Hampshire (hereafter referred to as “the Commissioner”).
- 1.2 The Panel has delegated part of its role in handling complaints to a Complaints Sub-Committee (hereafter referred to as ‘the Sub-Committee’), which is made up of Local Authority and Independent Co-opted Panel Members.
- 1.3 The Sub-Committee aims to consider all complaints made against the Commissioner ~~within three weeks of recording in accordance with its Protocol for the Informal Resolution Procedure, and to provide complainants with the opportunity to make further comments in support of their complaint.~~ A flowchart setting out the correct process for making a complaint against the Commissioner can be found at Appendix 1.
- 1.4 The Police Reform and Social Responsibility Act 2011 (and later regulations) set out the powers of the Sub-Committee in resolving or closing complaints made against the Commissioner. The Legislation is clear that consideration of a complaint by the Panel should not amount to an investigation. As such, the Panel is limited in the steps it can take to review a complaint, and the recommendations it can make as a result.
- 1.5 The Sub-Committee may decide to disapply the informal resolution process agreed by the Panel, should the complaint fail to meet certain criteria.
- 1.6 The Sub-Committee recognise that there may be times when a member of the public may not be satisfied with the outcomes reached by the Sub-Committee. The Sub-Committee are committed to dealing with all complaints fully and in a timely manner, but are mindful of the need to stay within legislation. Should any individual not be satisfied with the Sub-Committee’s conduct in relation to a complaint, an option open to them is to refer a case to the Local Government Ombudsman (see section 8 below).

- 1.7 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 get in the way of reviewing 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 to their case that the Sub-Committee is not capable or **are is** unwilling to grant.
- 1.8 The aim of this guidance is to let complainants know what the **Panel-Sub-Committee** considers to be unreasonable complainant behaviour, the options available to the Sub-Committee and the possible consequences to the individual.
- 1.9 The Sub-Committee will only invoke this guidance after careful consideration, and in exceptional circumstances. Individuals may have justified complaints but may be pursuing them in an inappropriate way, or they may be intent on pursuing complaints which appear to have no substance or which have already been investigated and determined.
- 1.10 Such complaints may rarely occur, but if a complainant's behaviour adversely affects our ability to do our work, or the work of any of our supporting officers, we may decide to restrict the contact that person has with the Sub-Committee.
- 1.11 If the Sub-Committee decide to invoke this guidance, we will write to the individual concerned to tell them why we believe his or her behaviour falls into that category, what action we are taking and the duration of that action.

## 2 **What is meant by “unreasonable complainant behaviour”?**

- 2.1 The Sub-Committee have adopted the definition used by the Local Government Ombudsman. Unreasonable complainant behaviour occurs where:
- There is repeated and obsessive pursuit of a complaint which appears to have no substance or which has been investigated and determined.
  - The contact may be amicable but still place very heavy demands on officer or Member time, or may be very emotionally charged and distressing for all involved.
  - There is an escalation of behaviour which is unacceptable, for example abusive, offensive or threatening behaviour.
- 2.2 Examples include the way or frequency that complainants raise their complaint with the Sub-Committee, or how complainants respond when they are told of our decision of their complaint. Appendix 2 lists a range of situations the Sub-Committee may consider to be examples of unreasonable behaviour.

### **3 Considerations to be made before taking action to restrict access**

- 3.1 All complainants have the right to have their complaint considered at an initial stage by the Sub-Committee. The Sub-Committee will ensure that the complaints procedure is exhausted – ended at a point that is appropriate to each case – and the complainant notified as such.
- 3.2 The Sub-Committee will consider and ensure they understand an individual's circumstance, how and why they feel as they do and what it is that would resolve the matter for them. We must be sure that we have given them the right opportunity to express their views and opinions and that we have listened and given appropriate thought and effort to resolving and explaining the position and our actions.
- 3.3 Before deciding whether the guidance should be applied, the Sub-Committee, with legal advice, will consider and satisfy themselves that:
- The complaint is being or has been reviewed properly, and any decision reached has been found to be appropriate based on the information presented to the Sub-Committee at the time.
  - Communications with the complainant have been adequate and within the Panel's policies.
  - Any decision reached has been reviewed and is found to be appropriate.
  - The complainant is not now providing any significant new information that might affect the Sub-Committee's view on the complaint.
  - There is not another, more specific path for the complainant to follow e.g. an appeal process to be followed when they are complaining about a decision taken.
- 3.4 Some individuals that may be considered to be unreasonable complainants may be behaving this way because of a specific circumstance or difficulty. Where this is indicated the Sub-Committee will take this into account in determining the reasonableness of the complaint made.
- 3.5 Any restrictive actions that may be taken will be tailored based on the circumstances and behaviour of the individual and their complaint.

### **4 Possible Actions**

- 4.1 Actions that could be taken to restrict access and contact:
- Restricting telephone calls to specified days/times/duration (for example, one call on one specified morning/afternoon of any week);

- Limiting the complainant to one medium of contact (telephone, letter, email etc.) and/or requiring the complainant to communicate only with one named member of staff. If this by email, it will be automatically forwarded to the named single point of contact;
- Placing restrictions on the amount of time the Sub-Committee and their officers will spend reviewing their complaints;
- Letting the complainant know that the Sub-Committee will not reply to or acknowledge any further contact from them on the specific topic of that complaint;
- Refusing to register and process further complaints about the same matter.

4.2 In some circumstances, the Sub-Committee may decide that it is appropriate to severely reduce or completely stop responding to a particular complainant.

## **5 Process for the application of the Guidance Note on the management of unreasonable complainant behaviour**

**5.1** At its meeting, on 24 September 2018 (TBC), Sub-Committee agreed the application of the Guidance Note on the management of unreasonable complainant behaviour be delegated to the Monitoring Officer to the Panel (hereafter referred to as “the Monitoring Officer”), in consultation with the Chair of the Sub-Committee (hereafter referred to as “the Chairman”), as set out in this Guidance Note. This was recommended in order to allow the guidance note to be applied and any restrictions put in place in a shorter timeframe, given the impact unreasonable behaviour may have on both Member and officer time.

**5.2** Delegation of this power to the Monitoring Officer does not preclude a meeting of the Sub-Committee being called to determine a decision in respect of unreasonable complainant behaviour should it be deemed necessary by the Monitoring Officer.

### **First Stage – Notification/Warning**

**4.35.3** The Monitoring Officer will review, in consultation with the Chairman. The Sub-Committee, with legal advice, will confer on why the complainant’s behaviour is causing a concern, giving clear documented evidence to support this and outlining how the behaviour needs to change.

**5.4** The ~~legal advisor~~ Monitoring Officer ~~to the Sub-Committee~~ will write to the complainant explaining to them the actions that ~~the Sub-Committee~~ may be taken if their behaviour does not change, along with a copy of this guidance.

### **Second Stage – Application**

5.5 Should the complainant continue to demonstrate unreasonable behaviour, following receipt of the notification, the Monitoring Officer, in consultation with the Chairman will, determine whether to apply the unreasonable complainant policy and what actions will be taken.

4.45.6 If the Monitoring Officer determines to apply the Guidance Note on the management of unreasonable complainant behaviour, the legal adviser to the Panel will write to the complainant explaining to them the actions to be taken. All letters will include:

- Why this decision has been reached~~the Sub-Committee has taken the decision it has~~;
- What specific action ~~it is~~ being taken~~gen~~;
- The duration of that action;
- The date the decision will be reviewed;
- The circumstances that the decision could be reviewed in advance of that date (e.g. new relevant information);
- The right of the complainant to contact the Local Government Ombudsman (LGO) about the fact that they have been treated as unreasonable.

5.7 Any decision taken to apply this guidance note will be formally reported to the Sub-Committee at the first Sub-Committee Meeting following the date of the determination.

4.55.8 A log of the decision made and records of all contacts with the complainant will be kept. This information will be treated as confidential and only shared with those who may be affected by the decision in order them to carry out their role at work

4.65.9 Key information to be recorded includes:

- When a decision is taken not to apply the guidance ~~when a member of staff asks for this to be done~~, or
- When a decision is taken to make an exception to the guidance once it has been applied, or
- When a decision is taken not to put a further complaint from the complainant through the complaints procedure for any reason, and
- When a decision is taken not to respond to further correspondence, make sure any further letters, faxes or emails from the complainant are checked to pick up any significant new information.

4.75.10 Any further contact from the complainant, for example on a new issue, will be treated on its merits.

56 **Who will be informed about restrictions?**

5.46.1 All officers and Members who have experienced unreasonable complainant behaviour relating to the specific complaint will be informed of the decision to impose contact restrictions.

## 67 **Reviewing the decision to restrict access**

6.47.1 When imposing a restriction on access a specified review date is given. Once that date has been reached any restrictions should be lifted and relationships returned to normal unless there are good grounds to extend the restriction.

6.27.2 The Sub-Committee, in conjunction with the Panel's legal advisor, will review the restriction at the agreed time. If the decision is made to lift the restriction the complainant will be informed of that decision. If restriction is to continue, the reasons for the continuation of the restriction will be given to the complainant along with the next review date.

## 78 **Referring complainants to the Local Government Ombudsmen (LGO)**

7.48.1 A complainant who is not satisfied with the outcomes-determinations of the Sub-Committee or its Monitoring Officer may make a complaint to the LGO, who will consider the case. Should they determine that the referral of a complaint warrants further consideration, they will review the process followed by the Sub-Committee or its Monitoring Officer in reaching any such conclusion.

7.28.2 A complainant who has been designated as unreasonable may make a complaint to the Ombudsman about the way in which they have been treated. The Ombudsman is unlikely to be critical of the Sub-Committee and its Monitoring Officer's actions if it can show that it acted proportionately and in accordance with its adopted guidance.

## 89 **Harassment and bullying**

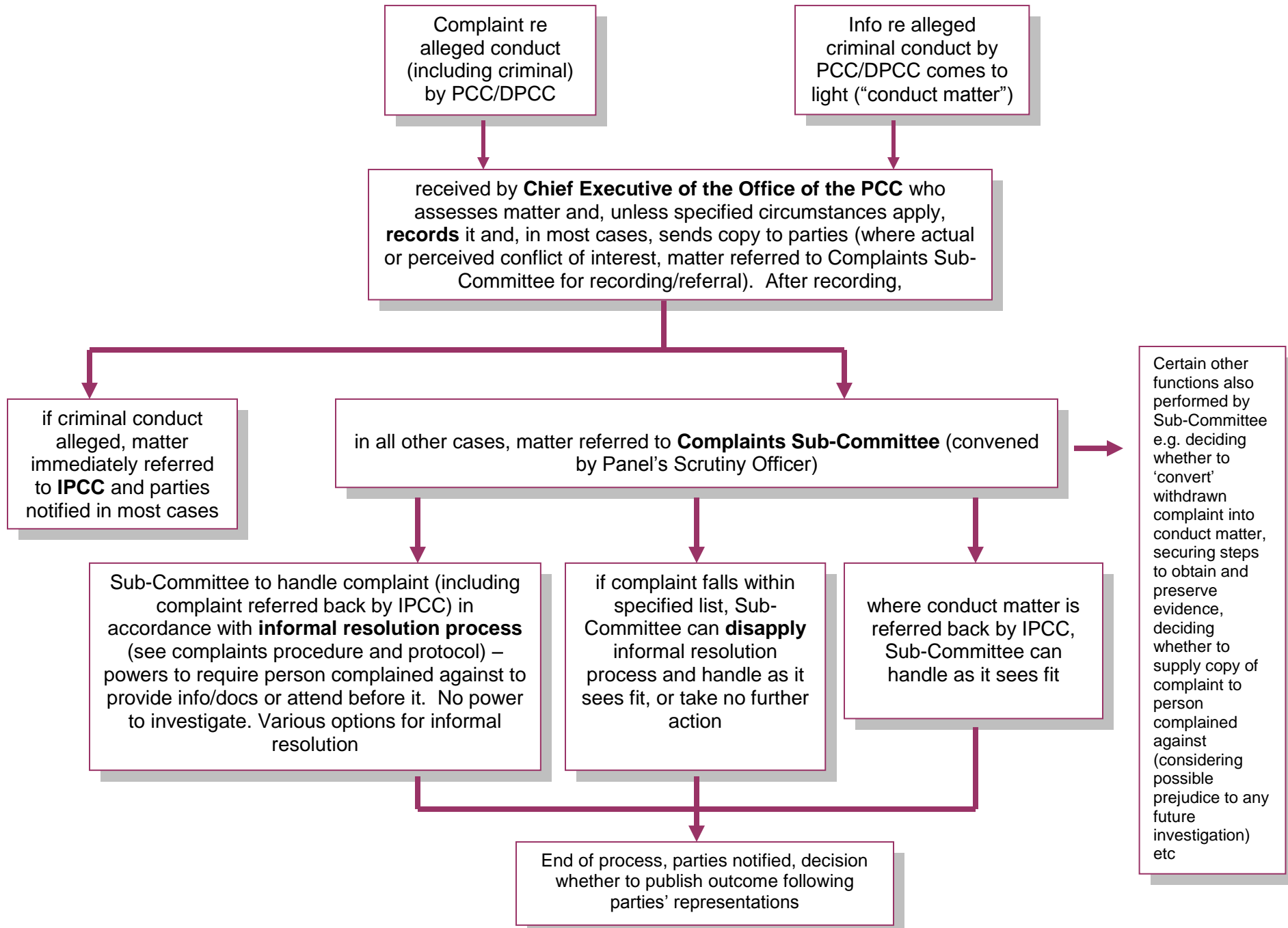
8.49.1 Unreasonable complainant behaviour may amount to bullying or harassment. All Sub-Committee members and officers have the right to be treated with respect and dignity in the workplace. Behaviour by third parties that bullies, harasses or intimidates individuals is unacceptable and will not be tolerated. The Sub-Committee will take all reasonable steps to prevent such behaviour.

## 10 **Contact information**

10.1 For more help or information, the Complaints Sub-Committee can be contacted via [members.services@hants.gov.uk](mailto:members.services@hants.gov.uk)

10.2 More information on complaints can be found at <http://www3.hants.gov.uk/hampshire-pcp/pcc-complaints.htm>

## COMPLAINT HANDLING FLOWCHART – APPENDIX 1





## Appendix 2 - Examples of unreasonable behaviour of complainants

Unreasonable complainant behaviour includes what is listed below. The list is not exhaustive, nor does one single feature on its own necessarily imply that the person will be considered as being in this category. It may include:

- Have insufficient or no grounds for their complaint, or be making the complaint only to annoy (or for reasons that he or she does not admit or make obvious)
- Refuse to specify the grounds of a complaint despite a request to do so
- Refuse to co-operate with the complaints process while still wishing their complaint to be resolved
- Refuse to accept that issues are not within the remit of the complaints policy and procedure despite having been provided with information about the scope of the policy and procedure.
- Refuse to accept that issues are not within the power of the Complaints Sub-Committee to review, change or influence (for example a complaint about something that is the responsibility of another organisation)
- Insist on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (insisting, for instance, that there must not be any written record of the complaint)
- Make what appear to be groundless complaints about the those dealing with the complaints, and seek to have them dismissed or replaced
- Make an unreasonable number of contacts with the Sub-Committee, by any means, in relation to a specific complaint or complaints
- Make persistent and unreasonable demands or expectations of staff and/or the complaints process after the unreasonableness has been explained to the complainant (an example of this could be a complainant who insists on immediate responses to numerous, frequent and/or complex letters, faxes, telephone calls or emails)
- Harass or verbally abuse or otherwise seek to intimidate Members or officers dealing with their complaint, in relation to their complaint by use of foul or inappropriate language or by the use of offensive and racist language
- Raise subsidiary or new issues whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process
- Introduce trivial or irrelevant new information whilst the complaint is being reviewed outside of the period given for additional comments, and expect this to be taken into account and commented on
- Change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed
- Deny statements he or she made at an earlier stage in the complaint process
- Electronically record conversations without the prior knowledge and consent of the other person/s involved
- Refuse to accept the outcome of the complaint process after its conclusion, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given



- Make the same complaint repeatedly, perhaps with minor differences, after the complaints procedure has been concluded, and insist that the minor differences make these 'new' complaints which should be put through the full complaints procedure
- Complain about or challenge an issue based on a historic and irreversible decision or incident
- A combination of some or all of the above features