

AVON AND SOMERSET POLICE AND CRIME PANEL

10th DECEMBER 2012

Title: Arrangements for Complaint Handling

Report of: Lead Officer for the Police and Crime Panel, Bristol City Council

RECOMMENDATION

It is recommended that the Panel considers naming the Chief Executive in the Office of the Avon and Somerset Police and Crime Commissioner as the first point of contact for all complaints made against the Commissioner, and delegating the following powers and duties to the Chief Executive to act on the Panel's behalf:-

- on receipt of a complaint, to determine if the Panel is the appropriate body to deal with the complaint and to make arrangements for the recording of such complaints where appropriate.
- to refer any complaints or matters raised which allege criminal misconduct on the part of the Commissioner to the Independent Police Complaints Commission, and to filter complaints not directly relevant to the panel to the appropriate recipient.
- to provide an update report to each scheduled meeting of the Panel about all complaints concerning the Commissioner as covered by the Regulations. All complaint files and records to remain accessible to the Panel and available for dip sampling on request.
- to secure the informal resolution of Part 4 "other" complaints subject to the Panel assuming responsibility for the resolution of these complaints at any time if it considers that this will lead to a more satisfactory resolution of the complaint.

The significant issues in the report are:

Set out in the sections below and Draft Complaints Protocol at Appendix A

Context

1. The Panel has responsibility for handling all non-criminal complaints and conduct matters directed against the Commissioner, and criminal complaints and conduct matters that are referred back to the Panel by the Independent Police Complaints Commission (IPCC). To facilitate the expeditious handling of complaints, the Regulations allow for some aspects of complaint handling to be delegated to the Commissioner's Chief Executive Officer (CEO). The powers of delegation include administrative functions, such as making decisions on the recording or non-recording of complaints and referral of matters to the Independent Police Complaints Commission (IPCC).

Proposed Arrangements for Handling Complaints

2. At the last Panel meeting on 31st October, the various aspects of the process were discussed in detail, including the feasibility of delegating some aspects of complaint handling to the Commissioner's CEO. It was recognised that this would provide a filter for those complaints falling into well-established distinct categories and an administrative mechanism for the recording of complaints. It was also agreed that existing procedures for the informal resolution of complaints could also be used for establishing compatible procedures for informal complaints against the Commissioner.
3. From these discussions, officers note that the key issue for the Panel is transparency and the perception of bias from the point of view of the complainant. It is acknowledged that the introduction of a new complaints system administered by a local government joint committee relating to the holder of a political post has the potential to be confusing for the general public. It is therefore essential that the process is as clear and accessible as possible and that measures are in place to ensure that the CEO is dealing with complaints in a way the Panel considers appropriate.
4. Attached at Appendix A for consideration, is a draft protocol setting out how the Panel can carry out its statutory responsibility in handling non-criminal complaints against the Commissioner. The detail is set out in the protocol, but in brief and in accordance with the Panel's deliberations on the 31st October, it is proposed that the Panel delegates its power and duties in relation to the recording, filtering and initial resolution of complaints to the CEO. In practice, this will avoid the PCP from being "swamped" with a vast range of complaints with consequent impacts on member's time and the Panel's budget.

Recording - the CEO must keep a record of all complaints, purported complaints and conduct matters received. Records must be held

securely and kept regularly updated.

Filtering - complaints or matters raised which allege criminal misconduct on the part of the Commissioner must be referred to the Independent Police Complaints Commission (IPCC). Complaints about the delivery of operational policing matters will require referral to the Chief Constable. Other matters may concern a particular policy of the Commissioner and will not amount to a recordable complaint. If a complaint is considered vexatious, oppressive or otherwise an abuse of process for dealing with complaints, a decision may be taken to take no action at all and the complainant notified accordingly.

Informal Resolution – matters that do not naturally fall into the above categories, must be dealt with by way of informal resolution. This is a way of dealing with a complaint by solving, clearing up or settling the matter directly with the complainant, without an investigation or formal proceedings. This is a flexible process that may be adapted to the needs of the complainant and the individual complaint. It may involve the person complained against explaining their conduct and, if appropriate, apologising for it. This could be done by correspondence or in a face to face meeting. Where it transpires that a matter cannot be resolved to the satisfaction of a complainant, it is proposed that such matters are referred to the Panel for resolution.

5. The protocol also makes provision for a standing report on all complaints against the Commissioner to be presented to Panel meetings. To allow for further transparency and accountability, all files and records will remain accessible to the Panel and available for dip sampling on request. The clerk to the Panel will also be kept informed of complaints as and when they arise.
6. It is understood from discussions at the 31st October meeting that the Panel is not minded at this stage to set up a complaints sub-committee, but will reconsider this if the number of complaints becomes unmanageable.

Appendices:

Appendix A – Draft Complaints Handling Protocol

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 Background Papers:

The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012

APPENDIX A

AVON AND SOMERSET POLICE AND CRIME PANEL DRAFT COMPLAINTS PROTOCOL

Introduction

The Police and Crime Panel is responsible for handling non-criminal complaints against the Commissioner and criminal complaints and conduct matters that are referred back to the Panel by the Independent Police Complaints Commission (IPCC). Arrangements for the Panel's role in complaints handling are set out in the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 and accompanying Home Office Guidance.

Avon and Somerset Police and Crime Panel has agreed to delegate responsibility for initial handling and recording functions to the Police and Crime Commissioner's Chief Executive and Monitoring Officer, as allowed under Regulation 7.

The purpose of this protocol is:

- to clarify the scope of the Panel's role in dealing with complaints and conduct matters in relation to the Police and Crime Commissioner; and
- to clarify arrangements for delegated responsibility to the Chief Executive and Monitoring Officer to the Avon and Somerset Police and Crime Commissioner.

Scope of the Panel's Activity

The Panel is responsible for overseeing the handling of complaints regarding the non-criminal behaviour of the Commissioner.

The Panel's functions do not cover:

- Criminal complaints about the Commissioner which are dealt with by the IPCC;
- Complaints about the police force which are dealt with by the Constabulary Professional Standards Department, Police and Crime Commissioner or IPCC as appropriate.

It is important to distinguish the Panel's scrutiny role from their complaints role. Even if a policy decision taken by the Commissioner generates complaints, if the policy decision in question was correctly agreed, the complaint would not fall within the remit of the Panel's role in complaints handling. It may instead inform the Panel in their scrutiny role. The only complaints that fall within the remit of the Panel are those which involve the **personal conduct** of the Commissioner.

The Panel's decision to delegate responsibility to the Chief Executive and

Monitoring Officer is intended to ensure that arrangements are in place to undertake an initial assessment on the appropriate course of action so that issues are dealt with swiftly and effectively to the satisfaction of the complainant.

Delegation of non-criminal complaints to the Chief Executive and Monitoring Officer

The Chief Executive and Monitoring Officer will consider all non-criminal complaints regarding both quality of service and conduct, make a recording decision and act to broker local resolutions to resolve complaints and restore relationships. A flow chart showing how complaints will be handled is attached at Annex A.

The Panel will receive a monitoring report at every meeting to provide summary information in relation to complaints against the Police and Crime Commissioner and how they have been dealt with. The reporting template is attached at Annex B. Where a decision is taken to record a complaint, a copy of the register and action plan will be attached to the report. The register and action plan template is attached at Annex C.

Members of the Panel will undertake periodic dip-sampling of complaints files held by the Chief Executive and Monitoring Officer to provide assurance with regard to the complaints handling process. A report will be taken to the following meeting of the Panel setting out findings of the dip-sampling sessions and the Chief Executive and Monitoring Officer's response.

Panel consideration of Complaints

A Panel meeting will be convened at short notice if the Panel is required to consider a complaints matter. Complaints will be referred to the Panel if:

- the complainant is not satisfied with the outcome following action taken by the Chief Executive and Monitoring Officer;
- the Chief Executive and Monitoring Officer deems there to be an actual or perceived conflict of interest in dealing with the complaint;
- the IPCC refers a matter back to the Panel.

An agenda will be published 5 working days before the meeting and the item/s would not be discussed in public.

Referral of the Complaint to the IPCC

It is the duty of a Police and Crime Panel to refer a complaint to the IPCC if it is determined that the complaint is a serious complaint, or the IPCC notifies the Panel that it requires the complaint to be referred.

According to Schedule 7 of the Police Reform and Social Responsibility Act

2011, a ‘serious complaint’ means a qualifying complaint made about conduct which constitutes or involves, or appears to constitute or involve, the commission of a criminal offence.

The referral must be made as soon as practicable and, in any event, not later than the end of the day following the day when it first becomes clear to the Panel that it is a serious complaint.

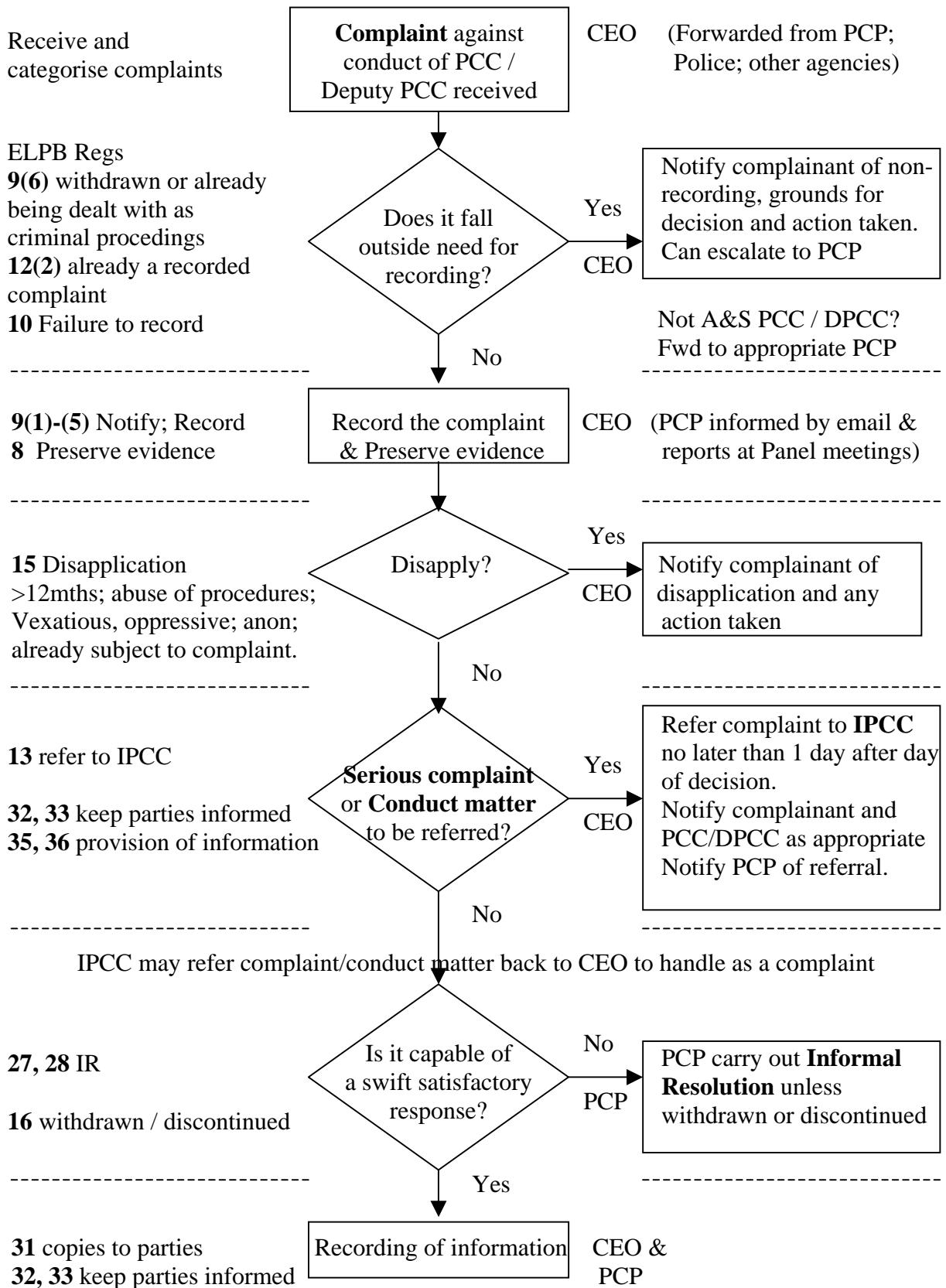
To fulfil this duty, the Chief Executive and Monitoring Officer will notify the Chair of the Panel who would directly refer the complaint on to the IPCC. A Panel meeting will be convened at short notice to inform the Panel of actions taken.

Public Information

Information about how to make a complaint and the role of the Police and Crime Panel in dealing with complaints and conduct matters in relation to the Police and Crime Commissioner will be published on the Police and Crime Panel website. A link to the Police and Crime Panel website will be included on the Complaints page of the Commissioner’s website. It is suggested that complaints are directed to the Chief Executive and Monitoring Officer to ensure that they are dealt with in a timely manner. The Chief Executive and Monitoring Officer will inform the Panel Administrator of complaints considered at initial handling stage, with formal reports to the Panel as set out above.

COMPLAINTS AND CONDUCT MATTERS

ANNEX A



The Elected Local Police Body (complaints & misconduct) Regulations 2011 (ELPB regs) - with reference to the Police Reform & Social Responsibility Act 2011 - uses key terms:

- A '**qualifying complaint**' is any **complaint** about the *conduct* of the PCC or Deputy PCC.
- A '**serious complaint**' is a particular type of complaint which alleges that the PCC/DPCC has committed a **criminal offence**.
- A '**conduct matter**' is an indication that the PCC/DPCC may have committed a **criminal offence**, not from a complainant (e.g. through legal/civil proceedings or media reporting).
- '**Conduct**' includes acts, omissions, statements and decisions (whether actual, alleged or inferred).

COMPLAINTS AND CONDUCT MATTERS AGAINST THE COMMISSIONER REPORT TO THE PANEL – DATE

Date received / log no.	Summary	Recorded?	Handled by	Outcome	Live or Closed
dd/mm/ccyy xxx					
dd/mm/ccyy xxx					

**AVON AND SOMERSET POLICE & CRIME COMMISSIONER
COMPLAINT AGAINST THE COMMISSIONER - REGISTER & ACTION PLAN**

ANNEX C

Case log number:	
	Date received:
Recording decision date:	
	Time received:
	Place or source received:
Complainant(s):	Name:
	Address:
Complaint:	Date of Incident: -
	Time of incident:
	Place of incident:
	Nature of complaint/conduct:
Qualifying Complaint or Conduct matter?	
Person complained against (PCC or DPCC)	
Falls outside need for recording?	
If yes, date notified complainant:	
Grounds for decision:	
Any further action taken:	
Date recorded:	
Reason:	
Preserve evidence:	
Date informed PCP:	
Disapplication?	
	Date:
	Grounds (vexatious etc):
	Date PCP informed:
	Date complainant informed:
Date of referral (if any) to the IPPC:	
No later than 1 day after day of categorisation.	
Date notified complainant:	
Date notified PCC/DPCC (as appropriate):	
Serious complaint or Conduct matter?	
Supervision by the IPPC?: Yes/No	
Management by the IPPC?: Yes/No	
Investigation by the IPPC on:	
Investigating Officer's Report:	
Received by Police Authority on:	
Decision Taken:	

**AVON AND SOMERSET POLICE & CRIME COMMISSIONER
COMPLAINT AGAINST THE COMMISSIONER - REGISTER & ACTION PLAN**

Date:	
Sent to PCA on:	
Outcome:	
Date:	
Sent to CPS on:	
Recommendation:	
Date:	
Report:	
Received by PCP on:	
Decision Taken:	
Date:	
IPCC referred back?	
Qualifying complaint escalated by complainant and suitable for informal resolution?	
If not IR, handle as see fit	
Date Complainant notified of IR:	
Complainant's proposals for resolution:	
PCP keeping PCC/DPCC informed:	
PCC's/DPCC's comments and concerns properly considered:	
Date PCP resolution proposal letter sent:	
PCP proposal for resolution:	
Agreed resolution date:	dd/mm/ccyy
Clear explanation of what happened & why:	
What process will be followed & by whom:	
Means & frequency of communication:	
Complainant addressed in a clear & impartial way:	
Outline what practical action or OPCC learning may come out of the complaint:	
Demonstrate that IR feeds back into improved OPCC practice:	
Completion of the Action Plan:	
If IR fails, Local Government Omb.	
Results:	
Outcome(s) of Complaint(s):	
Details of further action (if any):	
Complainant Informed of Result:	
Method:	
Date:	
Provision and recording of information	
Case closed:	