

AVON AND SOMERSET POLICE AND CRIME COMMISSIONER'S OFFICE

AVON AND SOMERSET POLICE AND CRIME PANEL

16 JUNE 2016

REPORT OF THE CHIEF EXECUTIVE

COMPLAINTS AGAINST THE POLICE AND CRIME COMMISSIONER

PURPOSE OF THE REPORT

1. To provide members of Avon and Somerset Police and Crime Panel with oversight of all complaints made against Avon and Somerset Police and Crime Commissioner, for scrutiny of the initial handling by the Chief Executive of Avon and Somerset Police and Crime Commissioner's Office.

BACKGROUND

2. Avon and Somerset Police and Crime Panel (the Panel) is the Appropriate Authority to handle complaints against the conduct of 'Relevant Office Holders', being Avon and Somerset Police and Crime Commissioner (PCC) and Deputy PCC if one is appointed, according to statutory regulations of the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 and as referred to in the Police Reform and Social Responsibilities Act 2011, section 31 and schedule 7.
3. However, the initial handling, which includes categorisation, recording decision-making, referral of criminal allegations to the Independent Police Complaints Commission (IPCC), disapplication decision-making, and responding to the complainant in the first instance, has been delegated by the Panel to the Chief Executive in the Office of Avon and Somerset Police and Crime Commissioner, with scrutiny and oversight of all complaints and any escalation for informal resolution, remaining with the Panel.

SUMMARY OF COMPLAINTS RECEIVED

4. There has been one complaint since the last report against the *conduct* of the Police and Crime Commissioner ('conduct' including acts, omissions, statements and decisions (whether actual, alleged or inferred)). This specific complaint was escalated, handled and finalised by the Police and Crime Panel, with a completion date of 28 April 2016. All complaints to date have had Panel oversight, including those solely handled by the Panel.
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6. Please refer to the summary table in Annex 1.

7. All complaint files are available at the office of the Police and Crime Commissioner for viewing by the Panel, if requested. Live complaint files are available at the Police and Crime Panel meeting. The document retention period is in accordance with the published Record Retention Policy and this is currently eight years.

EQUALITY IMPLICATIONS

8. There are no equality implications arising from the handling of complaints against Avon and Somerset PCC. The protected characteristics of complainants are not necessarily known, and all complaints are logged and published in an open and transparent manner.

COMPLAINTS AGAINST AVON AND SOMERSET POLICE

9. The OPCC were asked by the Panel to provide a summary of their work in relation to police complaints. All complaints against the Police from the public which are received by the PCC are forwarded to the Constabulary (to the Chief Constable's staff office unless a single point of contact is already known and dealing with the issue). In these cases the Constabulary usually handle the contact and reply directly to the complainant, but in some instances, such as contacts from MPs, Local Authorities, Councillors or high media risk correspondence, the Constabulary are asked to provide comments to the PCC so that the PCC can reply directly to the contactee. Complaints received against the Police are monitored by the PCC on a single case basis until finalisation/completion, which is one of the roles of the PCC.
10. The PCC interacts with the Professional Standards Department (PSD) and Chief Constable to ensure that complaints against the Police handled according to the current legislation, including the Police Reform Act 2002 (as amended); complaints and conduct regulations; and Independent Police Complaint Commission (IPCC) Statutory Guidance.
11. The two elements of high importance are:
 - Police integrity – the Standards of Professional Behaviour and Code of Ethics;
 - The open and transparent handling of complaints against the Police.
12. The PSD ensures that this happens by handling public and internal complaints against the Police; investigations into possible corruption; handling of small cash claims made against the Constabulary; and keeping registers of business interests and agreed and rejected Gifts and Hospitality. The PSD provides advice and assistance to District/Departmental Officers when they are conducting local complaint investigations. PSD's Counter Corruption Unit (CCU) undertake investigations into public and internal complaints against the conduct of Police Officers or Staff. The CCU is an intelligence-led unit focusing on identifying criminal wrong-doing or corruption. CCU is based at HQ Portishead and also runs a confidential (optionally anonymous) corruption, bullying and harassment reporting and helpline. The PCC regularly reviews the handling of each report received by CCU through the confidential line.
13. The PCC is statutorily required to exercise all the Elected Local Policing Bodies powers and duties in relation to: handling complaints and conduct

matters against the Chief Constable¹; monitoring the work of the local Constabulary's PSD and monitoring the Constabulary's recordable complaints procedures - both conduct and 'direction and control' (policy, procedures and processes, including 'quality of service' complaints) - and working with the Constabulary to improve relevant processes²; ensuring that the lessons learnt from complaints and claims lead to improvements in service; having regard to any guidance issued by the Home Secretary or the Independent Police Complaints Commission (IPCC) on complaints or disciplinary matters³; adhering to the powers of the IPCC, providing all information required⁴ and fostering a good working relationship with IPCC staff; monitoring the application of Conduct Regulations and the work of the Misconduct Panels; the appointment of independent people to sit on Misconduct Hearing Panels (the PCC has a statutory duty to maintain a list of independent people); and administering Police Appeal Tribunals (PATs), including the appointment of the panel⁵.

1. Police Reform Act 2002 s13 / Schedule 13;

2. Police Act 1996, s83 & s87. Police Reform Act 2002 s14(2) & s15(2);

3. Police Act 1996, s83 & s87. Police Reform Act 2002 s22;

4. Police Reform Act 2002 s17;

5. The Police Appeals Tribunal Rules 2012 as amended.

14. The Police Reform and Social Responsibility Act 2011 gives PCCs the **power to intervene** if the PCC is dissatisfied with the process undertaken by the Constabulary. As stated in the IPCC Statutory Guidance:

Where it appears to a local policing body that the chief officer of the force he or she maintains has not complied with an obligation under Part 2 of the Police Reform Act 2002 or has contravened an obligation, the local policing body may direct the chief officer to take whatever steps the local policing body thinks appropriate. The chief officer must comply with any directions given in such circumstances by the local policing body.

15. There are opportunities for the PCC to have an enhanced role in the complaints system in future under the arrangements outlined in the Policing and Crime Bill 2015-16 (currently at the report stage in the House of Commons) which are likely to take full effect at the end of 2017.
16. The PCC also interacts with the IPCC regarding certain aspects of complaints, including referrals of complaints against the Chief Constable when assessed as appropriate; if a complaint against the Chief Constable is appealed by a complainant to the IPCC; regarding IPCC independent investigated complaints against the Police; Office of the PCC referrals of complaints against the PCC when assessed as appropriate in the overall monitoring of complaints against Avon and Somerset Police and within the PCC's strategic governance role in having oversight of the Constabulary.
17. With the aim of openness and transparency, the PCC instigated the Independent Residents' Panel (IRP) in June 2013 as a public scrutiny panel to review completed complaints against the Police. This panel has been replicated by other PCCs as good practice and within the principles of the Data Protection Act. The Panel feedback and PSD response report is published on the PCC's website after each complaint case review session.

18. Some public complaints against the police or internally investigated conduct matters (without a public complainant) result in a case to answer for gross misconduct. This requires a Misconduct Hearing to be initiated, with a Legally Qualified Chair, Senior Officer/Staff member and Independent Person (selected from a list held by the PCC) sitting on a Misconduct Hearing Panel. Misconduct Hearings are in public unless the Chair considers that there are exceptional circumstances. If the Panel's sanction, delivered by the Chair, is dismissal then the dismissed Officer (or Special Constable) has the right to appeal. The PCC manages the whole Police Appeal Tribunal administrative process and a Legally Qualified Chair as well as a Chief Officer from an external Force, plus a retired Officer from another Force sit on the Tribunal Panel, which is in Public unless there are exceptional circumstances deemed by the Chair.
19. An additional aspect of the PCC's support for openness and transparency regarding complaints against the Police is the publication of notes from the monthly Professional Standards portfolio meeting with the Deputy Chief Constable, who is the lead Officer for Professional Standards.

RECOMMENDATIONS

20. Members are asked to review and comment on this complaints report and to advise of any recommendations or requests for informal resolution through the statutory process of escalating complaints against the PCC to the Panel.

JOHN SMITH
CHIEF EXECUTIVE