

POLICE AND CRIME PANEL

Venue: Town Hall, Moorgate Street, Rotherham. S60
2TH

Date: Monday, 28th January, 2013

Time: 11.00 a.m.

A G E N D A

1. To determine if the following matters are to be considered under the categories suggested, in accordance with the Local Government Act 1972.
2. To determine any item which the Chairman is of the opinion should be considered as a matter of urgency.
3. Apologies for Absence.
4. Minutes of the Previous Meeting held on 19th December, 2012 (herewith) (Pages 1 - 4)
5. Precept Proposal for the Year to 31st March, 2014 (report herewith) (Pages 5 - 12)
6. Complaints Procedure (report herewith) (Pages 13 - 21)
7. Exclusion of the Press and Public.
The following item is likely to be considered in the absence of the press and public as being exempt under Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended March 2006) (information relates to an individual).
8. Complaint (report herewith) (Pages 22 - 26)

**POLICE AND CRIME PANEL
19th December, 2012**

Present:-

Barnsley Metropolitan Borough Council:-

Councillor K. Richardson

Doncaster Metropolitan Borough Council:-

Councillor P. Bartlett

Councillor C. Ransome (Substitute for Mayor Davies)

Rotherham Metropolitan Borough Council:-

Councillor J. Akhtar

Councillor T. Sharman

Sheffield City Council:-

Councillor S. Anginotti

Councillor H. Harpham (in the Chair)

Councillor H. Mirfin-Boukouris

Co-opted Member:-

Mr. Kash Walayat.

Apologies for Absence were received from:-

Mayor P. Davies (Doncaster Metropolitan Borough Council).

Councillor T. Hussain (Sheffield City Council)

Councillor M. Noble (Barnsley Metropolitan Borough Council)

Mrs. M. Tennison. (Co-opted Member)

J16. MINUTES OF THE PREVIOUS MEETING HELD ON 23RD NOVEMBER, 2012

Consideration was given to the minutes of the previous meeting of the Police and Crime Panel held on 23rd November, 2012.

Reference was made to Minute No. 15 (Schedule of Future Meetings) and whether or not the Chairman and Vice-Chairman of this Panel had yet met with the Police and Crime Commissioner on the 14th December, 2012 as proposed. It was confirmed that such a meeting had not yet taken place and would do so early in the new year.

Resolved:- That the minutes of the meeting held on 23rd November, 2012 be approved.

J17. COMPLAINTS PROCESS

Consideration was given to a report presented by Deborah Fellowes, Scrutiny Manager, which outlined the duties that the Panel had in receiving and dealing with complaints about the Police and Crime Commissioner and Deputy Police Crime Commissioner, the options available to Panel Members in discharging these duties and recommendations on taking this forward, including an outline process.

The report set out in detail the functions for which the Panel were responsible and the various options for the delegation of functions, which included:-

- Panel/host authority retains all functions.
- Triage role for the Chief Executive of the Police and Crime Commissioner.
- Making arrangements for securing informal resolution of complaints.
- Delegation of receipt, triage and resolution activity.

The Panel were advised that they may wish to adopt a mixture of delegation of its functions, which could involve a sub-committee of the Panel being established to oversee the complaints process with the support of the Monitoring Officer with all final resolutions and outcomes being reported back to the full Panel.

Discussion ensued on the various options available to the Panel and clarification sought on potential number of complaints, the need to sieve out vexatious and frivolous complaints, informal resolutions, definitions of serious and criminal complaints, the merits in assigning a small sub-committee to receive complaints on the Panel's behalf and the role of the Monitoring Officer.

Having debated various issues at some length it was suggested that the best way to take complaints forward was for them all to be received by the Monitoring Officer and for these to be presented to the Panel on an as and when received basis until it became clearer what the likely numbers would be. This would be revisited should the numbers become more of an issue in six months. A report setting out the agreed process was to be presented to the next meeting in January, 2013.

Resolved:- (1) That all complaints be received by the Monitoring Officer and for these to be presented to the Police and Crime Panel on a regular basis.

(2) That a report setting out the full process be submitted to the next meeting in January, 2013 and for this to be revisited in six months time.

J18. WAYS OF WORKING

Consideration was given to a report presented by Deborah Fellowes, Scrutiny Manager, which outlined the main options for the Panel in terms of how it worked with other partners, in particular the Police and Crime Commissioner (PCC) and how it engaged the wider community in its work.

The Panel discussed at the induction workshop how it wanted to work. The particular focus was on work with the Commissioner, however, links with the Community Safety Partnerships and other partners were also discussed along

with ways of engaging more widely with communities. Whilst it was noted that it was not a statutory requirement of the Panel to carry out direct community and victim consultation, it was felt that they needed to be aware of wider issues and priorities within the community. It was also agreed that ways of making the workings of the Panel more transparent and accountable via community engagement needed to be explored.

At the Panel's request the Offices Group considered the following issues and made recommendations accordingly which were set out in detail as part of the report:-

- Protocols for working with others.
- Being a proactive Panel.
- Being open and accountable.

The Panel considered the recommendations of the Task and Finish Group and were in complete agreement with the development of protocols to clarify the working relationships within a Memorandum of Understanding, merger of the two groups to ensure there was a fit for purpose officer network, the need for a regular progress report from the Police and Crime Commissioner and the best opportunities for promoting the Panel's work through the website. Longer term facilities such as webcasting could be explored once the Panel was more established, but it was suggested that the host authority continue to hold meetings in its Council Chamber so that it was more accessible to the general public if they so wished.

Resolved:- (1) That the Memorandum of Understanding be approved, subject to discussion and agreement with the Police and Crime Commissioner about his expected attendance.

(2) That officers draft working protocols for the Panel, Community Safety Partnerships and area Scrutiny Committees and report to a future Panel meeting.

(3) That the merger of the two South Yorkshire officer groups be approved.

(4) That regular progress report from the Police and Crime Commissioner on community engagement and consultation be submitted on a regular basis.

(5) That the continued use of the offices of the host authority for Panel meetings, as an interim measure until the Panel is more established, be approved.

(6) That the recommendation for Panel minutes to be reported to all the South Yorkshire Council meetings be approved.

J19. PRESENTATION ON PRIORITIES FOR COMMUNITY SAFETY PARTNERSHIPS IN ROTHERHAM, SHEFFIELD, BARNSELY AND DONCASTER.

The Chairman welcomed Steve Parry, Rotherham's Neighbourhood Crime and Justice Manager, who gave a short presentation on the Priorities for the Community Safety Partnerships across South Yorkshire.

The presentation drew attention to:-

- Introduction and background about the Community Safety Partnerships.
- Joint Strategic Intelligence Assessment and the four partners key priorities.
- Joint Strategic Intelligence Assessment Data Sources.
- One Barnsley Priorities.
- Safer Doncaster Priorities.
- Sheffield First Priorities.
- Safer Rotherham Priorities.
- The common themes.
- Contact details of each of the partners.

A discussion and a question and answer session ensued and information was requested on the total budget allocated to each of the Community Safety Partnerships, which would be circulated in due course to all Panel Members.

Resolved:- That Steve Parry and the Community Safety Partnership representatives be thanked for their attendance and informative presentation.

J20. DATE AND TIME OF THE NEXT MEETING

Resolved:- That the next meeting of the Police and Crime Panel take place on Monday, 28th January, 2013 at 10.00 a.m. at Rotherham Town Hall, but that an earlier meeting also be held on Friday, 18th January, 2013 at 10.00 a.m. at the same venue.

REPORT TO SOUTH YORKSHIRE POLICE AND CRIME PANEL

1.	Meeting:	SOUTH YORKSHIRE POLICE AND CRIME PANEL
2.	Date:	28 JANUARY 2013
3.	Title:	PRECEPT PROPOSAL FOR THE YEAR TO 31 MARCH 2014
4.	Organisation:	POLICE & CRIME COMMISSIONER

5. Background and Summary of Proposal

- 5.1 The Police and Crime Panels (Precepts and Chief Constable's Appointments) Regulations 2012 require that The Police and Crime Commissioner (PCC) shall comply with the duty under paragraph 2 of schedule 5 of the Police Reform and Social Responsibility Act 2011, to notify the Panel of the proposed precept by 1st February of the relevant financial year.
- 5.2 Accordingly, this report proposes the precept for the financial year 2013/14.
- 5.3 The Government's 2013/14 Referendum Criteria allow PCC areas with 2012/13 Band D Council Tax demands in the lowest quartile of all Policing areas, to increase the annual Band D Council Tax by a maximum of 2% or £5 (3.6%), whichever is the greater.
- 5.4 The proposal is that the precept for 2013/14 be set at a level which increases the annual Band D amount by £5.
- 5.5 Needless to say, there are several factors which have been taken into account in reaching this position including:
- the likelihood of future Grant reductions
 - an ongoing determination to reduce crime levels and maintain/increase Policing visibility
 - the need to dedicate additional resources to particular specialist areas
 - a commitment to invest in Reducing Re-offending; Restorative Justice, Victim Support and Community Safety Initiatives.
- 5.6 The general question of 'affordability' has also played into the proposal and in particular the impact on Council Tax payers of increasing the precept by the maximum amount.

6. Recommendations

It is recommended that the South Yorkshire Police and Crime Panel give consideration to the proposals within this paper and support the proposed precept increase for 2013/14 at £5 per annum (Band D).

7. Proposals and details

- 7.1 The proposal for 2013/14 is that the Precept be increased by £5 at Band D. Further detail on the impact of this is set out below:

	Current (2012/13) Precept		Proposed increase Weekly	2013/14 Proposal	
	Annual	Weekly		Annual	Weekly
	£	£		£	£
Band A	91.70	1.76	6p	95.03	1.82
Band B	106.98	2.06	7p	110.87	2.13
Band C	122.27	2.35	8p	126.71	2.43
Band D	137.55	2.65	9p	142.55	2.74
Band E	168.12	3.23	12p	174.23	3.35
Band F	198.68	3.82	14p	205.91	3.96
Band G	229.25	4.41	16p	237.58	4.57
Band H	275.10	5.29	19p	285.10	5.48

- 7.2 The proposed increase in precept is expected to generate £1.6m in additional income and the intention would be to use this income in lieu of Reserves to help to fund the cost of replacing the Police Officers who left the Force during 2012/13. Consolidation of this element of the policing strength within the Base Budget will help to prevent 'the cliff edge' effect which reliance upon Reserves ultimately creates.
- 7.3 As expected the level of Grant from Central Government has been reduced. On a like for like comparison this reduction amounts to £3.2m (1.7%) for 2013/14.
- 7.4 It is also worthy of note that the Government has reaffirmed its commitment to a Police Funding Review. The possibility that such a Review will produce a detrimental outcome in respect of South Yorkshire has been factored into the consideration of Reserves and the strategy for their future use (see Appendix 2).
- 7.5 Pending the outcome of any Review it is currently assumed that Grant will reduce by a further £10m over the 2 year period to March 2016.
- 7.6 The former Police Authority's Medium Term Strategy was predicated upon expected Police Officers retirements of 110 in 2012/13; 60 in 2013/14 and 65 in 2014/15. In agreeing the Precept for 2012/13 the Authority did, however, agree to use the increase in 2012/13 precept income together with a contribution from Reserves to provide funding to replace and maintain the 110 2012/13 leavers for a period of three years.
- 7.7 The budget proposed for 2013/14 provides funding within the Force Revenue budget for the cost of the 110 Officers and also the 2013/14 (part year) cost of replacing the 60 anticipated 2013/14 leavers.

- 7.8 With regard to providing funding for the 60 2013/14 leavers the PCC has, in consultation with the Chief Constable, determined 50 of the 60 replacements should be allocated to Neighbourhood Policing, with the remaining 10 being allocated to Child Protection duties.
- 7.9 The Reserves Strategy outlined at Appendix 2 earmarks additional resources to support the replacement of all expected Police Officer leavers through next year and the following year for a three year period.
- 7.10 The budget proposal also accommodates the core funding for South Yorkshire's PCSOs which will from 1st April 2013 be absorbed within the main Government Grant rather than being provided through a separate Specific Grant.
- 7.11 It has been recognised that over recent years there have been a succession of annual budget underspends. These, by virtue of them being set aside in Reserves, can be viewed as positive and beneficial. However, it is now considered important that resources allocated are utilised for their intended purposes and also that accumulated Reserves are put to use in delivering key priorities.
- 7.12 With this backcloth in mind, it is proposed to distribute the projected underspend on the Force's 2012/13 budget (£4.5m) to priority areas. The planned distribution of this resource is set out for information at Appendix 3.
- 7.13 Taking all these various issues into account it is proposed that the funding allocated to support the Force's activities for 2013/14 be set at £245.2m (See Appendix 1) to include the part year cost of replacing 2013/14 Police Officer leavers and requiring an additional contribution from Force saving plans and efficiency measures of £3.4m.

8. Finance

- 8.1 Section 7 provides a commentary on the proposed mainstream budget for 2013/14 and the associated Precept proposal. However, there are certain separate (specific) funding streams which are in the process of being reviewed/confirmed (see Appendix 4). Subject to confirmation of these funds for 2013/14 further allocations will be made in respect of the specific purposes of that funding. This includes a Community Safety Fund, a new funding stream which appears to absorb a number of other previously separate funding streams but is, in total, significantly lower than the sum of the previous streams.

9. Risks and Uncertainties

- 9.1 The intention is to set a challenging savings/efficiency target for the Force in 2013/14. This has been discussed with the Chief Constable and his Director of Finance and whilst recognising the challenge ahead they are optimistic that it can be met.

- 9.2 Recognising the extent of the budgetary challenge the intention is to carry out a mid-year review of the 2013/14 funding level and also give consideration to any impact which it may be having on Force performance.
- 9.3 There are without doubt a number of risks and uncertainties attached to the Reserves Strategy and this will be kept under constant review as potential risks and their implications become clearer over time.
- 9.4 As mentioned in Section 7 the risk of the Police Funding Review producing negative outcomes for South Yorkshire has also been noted.

10. Background Papers and Consultation

- Appendix 1 Summary 2013/14 Budget Proposal
- Appendix 2 Reserves Update/Strategy
- Appendix 3 2012/13 Underspend – Distribution Plan
- Appendix 4 Specific Funding Streams (Subject to Review)

11. Contact

Name: **Steve Pick**

Position: **Treasurer to the Office of the Police and Crime Commissioner**

Organisation: **Office of the Police and Crime Commissioner**

Contact number and email address: **01226 772803**, stevepick@syjs.gov.uk

2013/14 PCC PROPOSED BUDGET – SUMMARY

	2012/13 APPROVED £M	2013/14 PROPOSED £M
Force budget	251.3	247.6
Provision for replacing 60 2013/14 leavers	-	+1.0
Additional savings/efficiency target	-	-3.4
Proposed Force Budget	<u>251.3</u>	<u>245.2</u>
SYPA/PCC Budget	<u>6.3</u>	<u>6.3*</u>
	<u>257.6</u>	<u>251.5</u>
Government Grant	199.4	196.2
Precept income (£142.55 Band D)	53.0	55.3
Collection surplus Fund	<u>0.6</u> 253.0	<u>-</u> <u>251.5</u>
Use of Reserves	4.6	-
	<u>257.6</u>	<u>251.5</u>

* indicative pending extensive review of all budgets and detailed consideration of 2nd stage transfers options, but commitment to being lower than former SYPA budget

APPENDIX 2**RESERVES UPDATE/STRATEGY**

	£m	£m
1. <u>'Minimum Working Balance'</u>		10.0
Set aside for unforeseen/unquantifiable threats/events e.g Hillsborough, Formula Funding Review etc		
2. <u>Earmarked Reserves</u>		
(i) Insurance Reserve		
Main threat is MMI Scheme of Arrangement (Max call is £10m+)	10.7	
(ii) Devolved Budget Reserve		1.2
Available to SY Police under current carry forward/delegation arrangements PCC Reviewing Scheme 2% cut off		
(iii) PCSO Reserve		0.7
Potential clawback of PCSO grant underspends numbers dipping below Government target		
(iv) Other minor earmarkings		0.6
Currently under review		
		13.2
3. <u>Earmarked – Budget Support</u>		
(i) Approved contribution to 2012/13 Budget – using this frees up £4.5m underspend for distribution by PCC	4.6	
(ii) Provisionally set aside to support funding for replacement of (2012/15) Police Officer leavers up to 31.3.16 (annual cost beyond 2015/16 is £5m approx.)	11.6	
		16.2
4. <u>Unearmarked Reserves</u>		
Potentially available for Invest to Save projects/efficiency initiatives; future budget support etc. PCC encouraging Force to develop innovative proposals		7.4
		46.8

2012/13 POLICE BUDGET (PROJECTED) UNDERSPEND**PCC DISTRIBUTION PLAN**

	2013/14 £M	2014/15 £M	2015/16 £M	3 Year Total £M
<u>SY Probation Trust</u>				
- Re-offending	0.250	0.250	0.250	0.750
- Restorative Justice	0.150	0.150	0.150	0.450
<u>SY Victim Support</u>	0.100	0.100	0.100	0.300
<u>Community Grants Scheme</u>	0.166	0.166	0.168	0.500
<u>Sheffield CC (Community Safety Initiatives)</u>	0.333	0.333	0.334	1.000
<u>Doncaster MBC (Community Safety Initiatives)</u>	0.167	0.167	0.166	0.500
<u>Rotherham MBC (Community Safety Initiatives)</u>	0.167	0.167	0.166	0.500
<u>Barnsley BMC (Community Safety Initiatives)</u>	<u>0.167</u>	<u>0.167</u>	<u>0.166</u>	<u>0.500</u>
	1.500	1.500	1.500	4.500

SPECIFIC FUNDING STREAMS
(SUBJECT TO REVIEW/CONFIRMATION)

	INDICATIVE (CURRENT) £M
Dedicated security posts	0.770
“Prevent” posts	0.341
“Prevent” channel	0.072
Local Criminal Justice Board	0.033
Prisons Intelligence	0.115
Safety Camera Partnership	1.486
Barnsley Estates Action Team	0.233
Safe Transport Officer	0.062
Meadowhall	0.080
Community Information Unit staff	0.049
Barnsley PCSOs	0.273
Sheffield PCSOs	<u>0.300</u>
	<u>£3.814m</u>
Community Safety Fund	<u>£3.187m</u>

This is a completely new funding stream; indications are that the following funding streams which are ending are included

- Drug Interventions Programme (DIP)
- DIP Drug Testing Grant
- Community Safety Partnership Funding (reduced by 60% over the last 3 years)
- Youth crime and substance misuse prevention activities
- Positive Futures

SOUTH YORKSHIRE POLICE AND CRIME PANEL – REPORT TO MEMBERS

1. Meeting:	South Yorkshire Police and Crime Panel
2. Date:	28 th January 2013
3. Title:	Complaints Procedure
4. Organisation:	Monitoring Officer, RMBC – Host Authority

5. Summary

This report proposes a complaints procedure for the Police and Crime Panel and reflects the comments and suggestions made by members at the previous meeting.

6. Recommendations**That the Panel:**

- Approves the Complaints Procedure, with a requirement to review the functioning of the procedure in six months.

7. Proposals and details

The Panel is given specific functions under the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 (the regulations) as to the handling and determination of complaints against the Commissioner and/or Deputy Commissioner. The regulations permit the Panel to delegate some or all of these to the Chief Executive of the Commissioner's office, to a sub committee of the Panel itself, to the Monitoring Officer of the host authority or to a voluntary sector organisation.

The functions for which the Panel are responsible are summarised as follows:

- Initial handling of complaints and conduct matters.
Receiving and recording of complaints. The Panel has a duty to obtain and preserve evidence and comply with any directions from the Independent Police Complaints Authority (IPCC).
- Resolution of non-criminal complaints.
Where a complaint relates to non-criminal conduct of the Commissioner or Deputy Commissioner the Panel needs to make arrangements for it to be subject to informal resolution. This may be conducted by the Panel itself, a sub committee of the Panel, a single member of the Panel or another person (which cannot be the Commissioner or Deputy Commissioner).
- Provision and recording of information.
 - Tell the Commissioner the name and address to which complaints are to be sent – information to be published by the Commissioner
 - Record a complaint
 - Send copies of records to the complainant and to the person being complained about
 - Copies may be anonymised or not provided depending on criminal proceedings and whether it is in the public interest or not. Decisions such as these to be kept under review.
 - Panel to keep all records of complaints, purported complaints or conduct matters.
 - Provide the IPCC with any information, documents or evidence it requires.
 - Complainants and any persons complained about should be sent copies of resolutions.

At the meeting of the Panel held on 19th December, it was agreed that the informal resolution of all complaints would be considered by the full Panel. This will enable the Panel to understand the volume and complexity of complaints being made before they make a decision in the future about which elements of the procedure may be effectively delegated.

The proposed procedure, at appendix A, reflects the earlier decision. However the administration of the procedure with regard to receiving and recording complaints, forwarding complaints to the IPCC and the initial consideration of whether a complaint is a complaint that requires consideration by the Panel, has been

delegated to the Monitoring Officer of the Host Authority, in consultation with the Chair and Vice Chair. This is to ensure that matters can be referred to the IPCC within the required timescale and that complaints which do not meet the criteria for consideration by the Panel can be dealt with in a timely manner and without the need to wait for the next Panel meeting.

It was suggested at the previous meeting that consideration be given to providing an appeal against the outcome of any informal resolution. As the Panel is not able to conduct an investigation into the complaint, does not make any findings and cannot impose a formal penalty, the provision of an appeal procedure does not appear appropriate. The regulations do not provide for an appeal against an informal resolution.

The Panel are asked to consider and, if appropriate, approve the procedure, with a review in six months.

Finance

There are no immediate financial implications of this report.

8. Risks and Uncertainties

Clearly the main uncertainty is the number of complaints that are likely to be received about the Commissioner. It is difficult to estimate and therefore plan for this.

Background Papers and Consultation

LGA Guidance Handling complaints about the Police and Crime Commissioner and their Deputy.

9. Contact

Jacqueline Collins,
Monitoring Officer
Legal and Democratic Services
Rotherham Metropolitan Borough Council
jacqueline.collins@rotherham.gov.uk Tel: 55768

SOUTH YORKSHIRE POLICE AND CRIME PANEL COMPLAINTS PROCEDURE

BACKGROUND

1. This procedure has been adopted to ensure compliance with the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012, issued under the Police Reform and Social Responsibility Act 2011.
2. There are separate procedures for complaints against the office of the Police and Crime Commissioner (the Commissioner) and staff, and complaints regarding operational policing, the Chief Constable and other police officers. Details are available from the Commissioner's office.

AIMS/OBJECTIVES

3. To set out the way complaints against the Commissioner and the Deputy Commissioner) dealt with by the Police and Crime Panel (the Panel).
4. To reassure the public that complaints against the Commissioner and the Deputy Commissioner are dealt with fairly and appropriately.
5. To reassure the public that any complaint relating to a criminal offence will be referred by the Panel to the Independent Police Complaints Commission. (IPCC)

INITIAL HANDLING OF COMPLAINTS

Submitting a complaint

6. The Panel has delegated authority for the initial handling of complaints, together with other aspects of the process, to the Monitoring Officer of the Host Authority (Rotherham Borough Council) under Section 101(2) of the Local Government Act 1972.

Complaints should be sent to:

**The Monitoring Officer
Rotherham Borough Council
Riverside House
Main Street
Rotherham
S60 1AE**

Or emailed to jacqueline.collins@rotherham.gov.uk

7. When submitting a complaint it is helpful to provide as much information as possible, to be specific regarding what was allegedly said or done, the date it happened and whether there were any witnesses.

Timescales

8. Wherever possible complaints will be acknowledged within 5 working days and, if dealt with through informal resolution (see paragraph 28 below) considered at the next meeting of the Panel.

Duty to preserve evidence

9. Where a complaint is made, the first task is to ensure that all appropriate steps are taken to obtain and preserve evidence relating to the complaint. This duty is ongoing until or unless arrangements are made for the complaint to be dealt with through informal resolution (see paragraph 28 below). This is the exception because informal resolution does not involve the investigation of the complaint (i.e. obtaining evidence about it).

Notification and recording of complaints

10. If the complaint relates to another police force area, the police and crime panel for that area must be notified.
11. If the complaint relates to the Panel's police force area it will be recorded.
12. If the complaint is recorded, the complainant and the person complained against will be provided with a copy of the record of complaint. However:
 - The record may be anonymised to protect the identity of the complainant or any other person.
 - In some cases the Monitoring Officer may decide not to provide a copy of the record, if doing so might prejudice any criminal investigation or pending proceedings or would in some other way not be in the public interest. Any decision not to provide the record will be kept under regular review.
 - This duty to provide a copy of the record does not apply where the complaint has been, or is already being, dealt with by criminal proceedings, or where the complaint is withdrawn.
 - If a decision is taken not to notify or record a complaint, the complainant must be advised and given the reason.

Notification and recording of conduct matters

13. If an issue arises because of a media report or legal proceedings for example, and it appears that the Commissioner or Deputy Commissioner may have committed a criminal offence, this is referred to as a conduct matter.
14. A conduct matter is therefore where no formal complaint has been received, but the matter should be treated in the same way as if there was a complaint.

15. Such matters will be recorded in the same way as a complaint unless it has already been recorded as a complaint or is the subject of criminal proceedings.

Reference to the Independent Police Complaints Commissioner

16. The Panel is not responsible for investigating or determining whether a crime has been committed. The Panel has delegated authority to the Host Authority's Monitoring Officer for filtering complaints and deciding which complaints may amount to criminal conduct and should be referred to the IPCC. This will be done in consultation with the Chair and Vice Chair. The Monitoring Officer may take advice from the IPCC before making a referral.
17. Any conduct matter (see paragraphs 13-15 above) and any serious complaint (a complaint about conduct that constitutes or involves, or appears to, the commission of a criminal offence) must be reported to the IPCC as soon as possible.
18. Any other complaint must be referred if the IPCC requires it.
19. Referrals should be made as soon as possible and no later than the close of business the day after the Panel becomes aware that the matter should be referred.
20. The complainant and the person complained about should be notified, unless doing so might prejudice a future investigation.
21. It is possible for the IPCC to refer any complaint back to the PCP for resolution.

Circumstances when the Panel does not need to deal with a complaint

22. The Monitoring Officer can decide, having consulted the Chair and Vice Chair, not to refer the complaint for resolution, or to take no action at all, in the following circumstances:-
- A complaint by a member of the Commissioner's staff, arising from their work
 - A complaint that is more than 12 months old where there is no good reason for the delay or the delay would be likely to cause injustice
 - A complaint about conduct that is already the subject of another complaint
 - An anonymous complaint
 - A complaint which is vexatious, oppressive or otherwise an abuse of process for dealing with complaints
 - A repetitious complaint

23. The complainant will be notified if the decision is taken not to deal with a complaint.

Withdrawn complaints

24. A complainant can withdraw or discontinue their complaint at any time, by notifying the Panel in writing (addressed to the Monitoring Officer) and signing the notification. This must be recorded, and if the complaint has been referred to the IPCC they shall be updated.

25. The Panel may decide not to treat the complaint as withdrawn, but to treat it as a conduct matter and refer it to the IPCC in accordance with the procedure set out above. This decision will be made by the Monitoring Officer in consultation with the Chair and Vice Chair of the Panel.

26. The person who is the subject of the complaint will be kept informed, unless to do so might prejudice a criminal investigation or pending proceedings, or would in some other way not be in the public interest.

Conduct occurring outside England and Wales

27. The Commissioner and Deputy Commissioner are under a duty to notify the Panel via the Monitoring Officer, of any allegation, investigation or proceedings relating to their conduct outside England and Wales. The Panel can take whatever action it thinks fit in these circumstances.

Informal Resolution of Complaints

28. If a complaint is not referred to the IPCC or rejected it must be dealt with by informal resolution. This is a way of dealing with a complaint by solving, explaining, clearing up or settling the matter directly with the complainant, without an investigation or formal proceedings. It is a flexible process that may be adapted to the needs of the complainant and the individual complaint.

29. If a complaint has already been satisfactorily dealt with by the time it comes to the Panel's attention, the complaint may be considered resolved and no further action taken. The Monitoring Officer can take this decision following consultation with the Chair and Vice Chair Panel.

30. Matters requiring informal resolution will be considered by the Panel. The Panel may take such steps as appropriate to resolve the matter including referring the issue to: -

- A sub-committee or a single member of the PCP
- Another person, such as the Chief Executive or the Monitoring Officer of the Host Authority.
- The Commissioner and Deputy Commissioner cannot be appointed to consider complaints against each other.

31. If a sub-committee or a person is appointed, the Panel can resume responsibility for informal resolution at any time.
32. Informal resolution will be discontinued if the IPCC notifies the Panel that they require the complaint to be referred to them, or if the Monitoring Officer in consultation with the Chair and Vice Chair of the Panel decided the complaint should be referred to the IPCC.

Requirements for informal resolution

33. The intention is for the procedure to be flexible so it can be adapted to individual circumstances.
34. However, there are some formal requirements:
 - No investigation can take place. The Panel has power to require the person complained against to provide information and documents and to attend to answer questions. This does not amount to an investigation.
 - The complainant and the person complained against must be given the opportunity to comment on the complaint as soon as is practicable.
 - Any failure by the person complained against to comment on the complaint when invited to do so will be noted in the written record.
 - No apology can be tendered on behalf of the person complained against unless the person has admitted the alleged conduct and agreed to the apology.

The outcome of informal resolution

35. There are no formal sanctions arising from informal resolution. Ultimately the Commissioner and Deputy Commissioner are accountable to the ballot box. However the Panel may publish a report or recommendation.
36. The aim is to resolve the complaint to the satisfaction of the parties involved. For example, the person complained against may agree that an apology would be appropriate, an explanation might resolve the concern, or an agreement on how to move forward may be reached following mediation.

Publishing the outcome of informal resolution

37. A record of the outcome of the informal resolution must be made as soon as practicable after the process is completed. Copies must be provided to the complainant and the person complained against.
38. The record of the outcome of informal resolution can be published if it is considered to be in the public interest.

Keeping records

39. A record of all complaints received will be kept until 12 months after the Commissioner and/or Deputy Commissioner leaves office. The record will include the name of the complainant, details of the complaint and how the matter has been dealt with.
40. Reports regarding the sending of complaints and conduct matters referrals to the IPCC, when matters are not recorded as a complaint, when matters are withdrawn and any other aspects of the application of this procedure will be submitted to the Panel on a regular basis.

Appeals

41. There is no right of appeal against the outcome of informal resolution.
42. A complaint can be made about the way a matter was handled by referring the matter to the Local Government Ombudsman:

The Local Government Ombudsman
PO Box 4771
Coventry
CV4 0EH

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