

SOUTH YORKSHIRE POLICE AND CRIME PANEL – REPORT TO MEMBERS

1.	Meeting:	South Yorkshire Police and Crime Panel
2.	Date:	27th November 2015
3.	Title:	Revised Complaints Procedure
4.	Officer and Organisation:	Legal Adviser, Rotherham Metropolitan Borough Council – Host Authority

5. Summary

To suggest revisions to the current Complaints Procedure.

6. Recommendations

It is recommended that the Panel:

6.1 Delegate the receipt, initial handling and recording of complaints in respect of the Police and Crime Commissioner to the Chief Executive of the Office of the Police and Crime Commissioner.

6.2 Request officers to prepare a revised Complaints Procedure and Protocol based on the changes described in this report.

7. Details and Proposals

The initial handling of complaints has previously been delegated by the Panel to the Monitoring Officer for the Panel, i.e. the Legal Advisor to the Panel at the host authority, Rotherham Borough Council.

Following a review of the current procedure an alternative means of operating the Complaints Procedure is proposed as set out in the flow chart at Appendix 1. This is based on the procedure adopted by Hampshire PCP amongst others, and which has been referred to in publications of the LGA as being good practice.

This revised procedure allows for a 'triage' role for the Chief Executive of the Office of the PCC (following delegation of receipt, and initial handling and recording functions of the panel to the Chief Executive of the PCC by means of this report).

The handling of such complaints is governed by the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 (the Regulations). Regulation 7 allows the panel to delegate initial receipt of complaints to the chief executive of the office of the PCC (in their role as monitoring officer) who will then distribute the complaints to the panel, the IPCC or the chief constable (or anyone else) as appropriate. Discussions with the Office of the PCC have confirmed that they are willing to accept this delegation of functions.

In this context the perception of independence in respect of the complaints process is relevant and it should therefore be noted that members of the public may view the complaints process as not sufficiently independent where the panel has delegated certain functions to the Chief Executive of the office of the PCC in their monitoring officer role.

However, there are a number of factors which will provide reassurance on this point, and will mean that delegation to the monitoring officer of the PCC as described above would be appropriate from the panel's perspective. These are as follows:

- Regulation 13(1-3) requires cases which are actually serious and criminal in nature to be investigated by the IPCC – these must be referred. If later investigation revealed that obviously criminal matters were not referred, the chief executive would have been contravening the Regulations.
- The panel will monitor any 'triage of complaints' when this aspect of complaint handling has been delegated to check that complaints are sifted in a fair and transparent way. Further it is proposed 'triage of complaints' will be carried out in consultation with an Independent Member of this Panel.
- If a complaint is made to a PCC about their own conduct, the PCC has to inform the panel (under Regulation 9(4)). If the chief executive of the office of the PCC consults with the PCC but then does not refer complaints about the PCC to the panel, they would be contravening the PCC's duty to notify the panel under Regulation 9(4).

- The PCC or other relevant officer cannot deal with complaints about themselves – this is prohibited under Regulation 7(2).
- An additional safeguard is the ability of the IPCC to compel the panel to record and refer a particular matter if it considers it is in the public interest to do so.
- Finally, the Home Office does not consider that such a role for the chief executive of the office of the PCC represents a conflict of interest. They point out that many organisations have satisfactory procedures for dealing with complaints on an in-house basis.

If the delegation to the Office of the PCC is approved, pursuant to the revised procedure the Chief Executive of the Office of the PCC in conjunction with an Independent Member of the PCP would consider whether the complaint is a complaint against the PCC, is a complaint for which the South Yorkshire PCP is the relevant Police and Crime Panel, is a complaint at all, or is a complaint relating to an operational matter of South Yorkshire Police (SYP) to be resolved in accordance with the complaints procedures of SYP.

- When in accordance with the proposed delegation to the Chief Executive of the Office of the PCC the decision has been made to record a complaint that will not subsequently be referred to the Independent Police Complaints Commission (the IPCC), the Chief Executive of the Office of the PCC will:

- Record the date of receipt and ensure that the complaint has been made on the appropriate Complaints Form.

- send a record of the complaint, the Complaints Form, to the complainant and to the person complained about (in the latter case, 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) and will include the contact details of the Panel's Complaints officer (a Complaints officer from the host authority); and

- refer the record, the Complaints Forms, and copies of all the associated paperwork, to the Panel's Complaints officer. This will be no later than two working days after the complaint has been recorded.

Informal Resolution

The Panel does not have power to investigate complaints. The Regulations require that complaints are dealt with by means of informal resolution. As stated in the current complaints procedure 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.

In terms of process, on receipt of the complaint, the Panel's complaints officer will:

- Assess the complaint to ensure that it is complete, and that it clearly identifies the alleged conduct matter
- Refer incomplete or unclear complaints back to the Chief Executive of the Office of the PCC seeking further information.
- Consider whether the complaint has been satisfactorily dealt with and if so, consulting with the complainant, to treat the complaint as withdrawn.
- convene a meeting of the Complaints Sub-Committee. ,
- write to the complainant, setting out timescales and providing details about the informal resolution procedure; and giving the complainant an opportunity to make further comments in support of his/her complaint (allowing him/her two weeks to respond). Where the Panel's Complaints officer believes that the circumstances of the case are such that the Complaints Sub-Committee may decide to treat the complaint as having been resolved, he/she will ask the complainant to provide his/her representations in this regard for the Complaints Sub-Committee to take into account; and
- write to the person complained about, setting out timescales and providing details about the informal resolution procedure; and giving him/her an opportunity to make comments in response to the complaint (allowing him/her two weeks to respond).
- The Panel's complaints officer will, taking advice from the legal adviser, compile a brief report for the Complaints Sub-Committee, setting out the pertinent details of complaint, recording any failure by the person complained about to comment on the complaint and making suggestions for the next steps.

There are no formal sanctions arising from informal resolution. Ways in which complaints may be resolved include:

Any such resolution may include (for example):

- An explanatory letter being written by an officer of the Panel (or on behalf of the Complaints Sub-Committee),
- An explanatory letter being written by an officer of the OPCC,
- A suggested change to OPCC policy; or
- A request that an apology is tendered (no apology may be tendered on behalf of the person complained against unless that person has admitted the alleged conduct and agreed to the apology).

The outcome of complaints concluded by Informal Resolution will be reported on a quarterly basis to the Panel. Similarly the Office of the PCC will report to the Panel

on a quarterly basis in respect of the complaints received and the way in which these have been recorded and dealt with.

8. Finance

None

9. Risks and Uncertainties

None

10. Background Papers and Consultation

Files held by the Panel's Legal Adviser.

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