

## **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](mailto: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