

CAMBRIDGESHIRE POLICE AND CRIME PANEL	Agenda Item No. 5
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Report of the Head of Legal Services, Peterborough City Council

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PROCEDURE FOR THE HANDLING OF COMPLAINTS

1. PURPOSE

- 1.1 This report is to agree the procedure for the handling of complaints made against the Police and Crime Commissioner (PCC).

2. RECOMMENDATIONS

- 2.1 The Panel is recommended to:

1. Agree the delegation for the initial referral of complaints to the Chief Executive of the Police and Crime Panel (subject to the Police and Crime Commissioner accepting that delegation)
2. Determine whether complaints to be dealt with by the Panel are to be
 - (a) dealt with by a single Panel Member or
 - (b) dealt with by a sub-committee;
3. Subject to the decision of the panel, agree that the membership of the sub-committee shall comprise 3 members of the Panel
4. Agree the draft content of the webpage outlining the complaints procedure.

3. TERMS OF REFERENCE

- 3.1 This report fulfils the Panel's function for complaints about conduct matters for the Police and Crime Commissioner and the Deputy Police and Crime Commissioner, in accordance with the responsibilities accorded to the Panel by the Police Reform and Social Responsibility Act 2011.

4. BACKGROUND

- 4.1 At the meeting of the Shadow Police and Crime Panel held on 18 October 2012, a report was submitted with various options for handling complaints about conduct matters.
- 4.2 The Shadow Panel agreed that the initial sifting of any complaints would preferably be undertaken by the Chief Executive of the Commissioner's office, subject to the Commissioner agreeing to such delegation. It was further agreed that where complaints were referred to the Panel, any informal resolution of complaints might be delegated to a sub-committee of the Panel or a single Panel Member and that the procedures for the handling of complaints would be agreed at the first public meeting.
- 4.3 Regulations regarding the handling of complaints have since been supplemented by guidance from the Local Government Association (appendix 1 to this report), the Home Office (appendix 2) and the Local Government Ombudsman (extracts at appendix 3). This report therefore outlines the high level decisions that the Panel must make in accordance with the Regulations. It is proposed that, subject to agreement with the recommendations, the host authority will work with the Chief Executive of the Commissioner's office to develop the complaints process.
- 4.4 It is noted that 4 options for the handling of complaints are given in the LGA guidance. Following the Panel meeting held in October 2012, it is considered that option 2 meets the

previous instruction of the Panel (see section 5 below).

- 4.5 It is important to note that complaints and conduct matters concerning a PCC or a Deputy PCC that allege criminality must be referred to the Independent Police Complaints Commission (the IPCC). The IPCC will then decide whether the matter requires investigation.

5. KEY ISSUES

Initial sifting of complaints

- 5.1 Members of the Panel are aware that complaints may be received by the Panel which
- (a) Concern the office of the Commissioner or the Deputy Commissioner
 - (b) allege criminal conduct of the Commissioner and Deputy Commissioner
 - (c) concern operational policing
- 5.2 Each of these complaints fall to be dealt with by different authorities and it is therefore important that an initial sift of complaints is undertaken to ensure that a complaint is directed to the appropriate authority. The Panel will deal only with non criminal complaints or matters referred back from the IPCC (paragraph (a) above).
- 5.3 Under the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012, it is possible for the Panel to delegate the initial sifting of complaints to the Chief Executive of the Commissioners office. It was concluded by the Panel at their shadow meeting in October that that the Chief Executive brings experience of operational policing, dealing with the IPCC and members complaints that would provide an invaluable resource in appropriately sifting complaints under this new process.
- 5.4 Option 2 of the LGA guidance sets out this triage role for the Chief Executive and discusses the benefits and potential conflicts that may arise from such a role.
- 5.5 If the Panel agrees this option the Chief Executive will distribute the complaints to the Panel, the IPCC or the chief constable (or anyone else) as appropriate. This may also include contacting the complainant to request more information or clarification, but it is recommended that this should be solely for the purpose of determining where the complaint ought to be referred.
- 5.6 Given some of the concerns raised at the shadow panel meeting, the Panel might want to consider limiting the period of this delegation. Should the Panel want to be wholly self sufficient in relation to the processing of complaints in future, it must take into account that
- appropriate internal procedures and processes have to be developed for recording complaints
 - suitable officers must be identified to carry out the sifting process (and budget allocated accordingly)
 - officers must be trained in how to identify and sift those complaints, in particular how to deal appropriately with the IPCC
- 5.7 **Recording of complaints**
An important function of the complaints process is to ensure proper recording of all complaints received and to whom they were referred for action. .
- 5.8 Where the initial sifting of complaints is referred to the Chief Executive of the Commissioner, it is proposed that they would also carry out this recording function although this is also to be agreed by the Commissioner.
- 5.9 If delegation of this function is agreed, the Panel still retains responsibility for ensuring that this process is being carried out in accordance with statutory requirements. It is recommended therefore that the Chief Executive would report to Panel, or its sub-committee or the Chair outlining how the complaints have been triaged. The method of recording and the proposals for reporting to the Panel is to be agreed in subsequent discussions with the Chief Executive and

with the consent of the Commissioner.

Resolution of complaints

- 5.10 Once a complaint has been referred to the Panel, it must be dealt with under an informal resolution process. However there are a number of options as to how that informal process is operated and by whom.
- 5.11 Although the LGA guidance indicates that this process can be delegated to the Commissioner's Chief Executive, this would not be in accordance with the discussions of the previous shadow panel and is not recommended to the Panel.
- 5.12 Under the Regulations the Panel can appoint a sub-committee, or an individual from the Panel or a person who is not a member of the panel (for example the Monitoring Officer of the host authority) to secure the informal resolution of the complaint. There was no clear decision from the shadow panel in October as to how they would prefer to operate this delegation, but this report recommends that in the early stages of the process that the Panel ought to consider establishing a complaints sub-committee rather than refer the matter to a single Panel member or officer.
- 5.13 It is further recommended that a minimum of three panel members form the sub-committee: to be chosen from the Panel Members for each meeting (i.e. non-fixed membership). However, a permanent chairman for the sub-committee could be appointed to ensure a level of consistent decision making across all complaint cases. This delegation can be reviewed by the Panel at any time.
- 5.14 Subject to the Panel agreeing the recommendations in this report, it is proposed to develop a comprehensive complaints policy working in consultation with the Commissioner's Chief Executive. A draft web page regarding the complaints process is attached at appendix 4.

6. IMPLICATIONS

- 6.1 **Financial** – Subject to the decisions of the Panel consideration is to be given to funding the potential costs of supporting the complaints process, potential investigation costs, and support officer costs for providing advice to the Panel on the application of the Regulations to any complaints.
- 6.2 **Legal** – this report is written in accordance with The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 and the relevant guidance referred to.

7. NEXT STEPS

- 7.1 Subject to the Panel agreeing the procedure to be followed, officers will put in place the relevant systems to affect the procedures agreed.

8. BACKGROUND DOCUMENTS

- Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985
- 8.1 Local Government Association: Police and Crime Panels, Handling complaints about the Police and Crime Commissioner and their Deputy.
- 8.2 The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012.

9. APPENDICES

- 9.1 Local Government Association: Police and Crime Panels, Handling complaints about the Police and Crime Commissioner and their Deputy.

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