

CAMBRIDGESHIRE POLICE AND CRIME PANEL	Agenda Item No.
31 JANUARY 2018	Public Report

Report of: Fiona McMillan, Interim Director of Law and Governance & Monitoring Officer, Peterborough City Council

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**REVIEW OF COMPLAINTS
IPCC CONSIDERATION OF REFERRAL OF CONDUCT MATTER**

1.	PURPOSE
1.1	To update the Cambridgeshire Police and Crime Panel that no complaints were received against the Commissioner or his Deputy during the course of this reporting period.
1.2	To formally update the Cambridgeshire Police and Crime Panel on the outcome of the referral of a conduct matter by the Chief Executive of the Police and Crime Commissioner's office ("OPCC") relating to the former Deputy Police and Crime Commissioner to the Independent Police Complaints Commission ("IPCC") for investigation.
2.	RECOMMENDATIONS
2.1	To note the details of this report.
3.	TERMS OF REFERENCE
3.1	This report is due to the responsibility for the panel to have an overview of complaints made against the Commissioner or his Deputy.
4.	BACKGROUND
4.1	<p>The OPCC became aware of allegations in relation to the historical conduct of the former Deputy Police and Crime Commissioner ("DPCC") in May 2017 following the circulation of reports in the local and national media in respect of which civil proceedings against the Police had been commenced. On 15th May 2017 the former DPCC resigned with immediate effect.</p> <p>It is a statutory requirement for the Panel to record any matter in which it is notified that civil proceedings have been brought, or are likely to be brought, by a member of the public where it appears that those proceedings involve or would involve a conduct matter. Where a matter of this nature has been recorded it is then a statutory requirement to refer it to the IPCC for investigation without delay and in any case not later than the end of the day after it first becomes clear that it is a matter which must be referred.</p> <p>This statutory position is reflected in the Complaints Procedure which recognises that there are matters which cannot wait and where it would not be efficient for the Panel to meet to consider. Consequently the Chief Executive of the OPCC has delegated authority to refer a conduct matter to the IPCC on behalf of the Panel and exercised this authority to make such a referral on 15 May 2017. The Panel retains responsibility for receiving an overview of any such complaints against the Police and Crime Commissioner or the DPCC.</p>

	<p>In accordance with the Police Reform Act 2002 once a referral is made to the IPCC it must determine whether the matter should be investigated. If it decides that the matter should be investigated it must determine the mode of investigation having regard to the seriousness of the case and the public interest. If it decides that it does not need to undertake an investigation then it may refer the matter back to the Panel for local investigation or resolution. In that event appropriate arrangements will be made in accordance with the Complaints Procedure.</p>
5.	KEY ISSUES
5.1	<p>On 20th June 2017 Sarah Green, the Deputy Chair of the IPCC, responded to the OPCC regarding the conduct referral:</p> <p>"Under Section 31(1)(b) of the Police Reform and Social Responsibility Act 2011 a conduct matter is one where there is an indication (whether from the circumstances or otherwise)that a relevant office holder may have committed a criminal offence..... I do not consider there is an indication that any criminal offence may have been committed. Therefore it is not within the power of the IPCC to investigate it under the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012.</p> <p>In any event the former Deputy PCC has also had a conduct matter referred to the IPCC, by the MPS, under the Police Reform Act 2002. Under that Act and the regulations made under it, a conduct matter includes behaviour which justifies disciplinary proceedings (or would have done so had he remained a police officer). I have determined that this matter should be investigated locally by the Metropolitan Police Service under paragraph 16 of schedule 3 PRA, and I anticipate, although it will be a decision for the MPS, that the investigation will be conducted as part of Operation Herne, if that is not the case please inform me. Should further information indicate a criminal offence may have been committed, it can be considered in that investigation.</p> <p>For that reason I have determined that it is not necessary, under Regulation 14 for the IPCC to investigate the matter referred by you and refer it back to you to be dealt with by that panel in such manner (if any) as that panel may determine."</p> <p>This letter was referred by the Chief Executive of the OPCC back to the panel's Monitoring Officer on 22nd June 2017.</p> <p>On 3rd July 2017 the OPCC received an email from the Deputy Chair of the IPCC to say there was an error in her letter of 20th June regarding the reference she made to the OPCC informing her whether the MPS would deal with any investigation of the former DPCC as part of Operation Herne and confirmed that the IPCC do not expect the OPCC to do this.</p> <p>On 13th November the former Interim Director of Law and Governance wrote to Panel members to notify them that he had taken the advice of leading counsel regarding what action, if any, was now open to the Panel. He said:</p> <p>"I have to advise members that once the IPCC has concluded there is no conduct issue to investigate then there is also no conduct matter to refer to members. In essence that concludes the conduct questions and there is no matter to refer to the panel".</p> <p>This report is a formal confirmation of that advice.</p>
6.	IMPLICATIONS
6.1	<p>The Police Reform and Social Responsibility Act 2011 and Regulation 11(3) of the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 ("the Regulations") require the Panel to record any matter in which civil proceedings have or are likely to be instigated against a relevant office holder and which relate to a conduct matter. Regulation 13(2)(a) of the Regulations requires that when a matter has been recorded under Regulation 11(3) it must be referred to the IPC and Regulation 13(4) prescribes that this must be done as</p>

	<p>soon as is practicable and in any event not later than the end of the day following the day on which it first becomes clear to the Panel that the conduct matter is one to which Regulation 13(2) applies.</p> <p>The Panel has complied with its statutory requirements to record and refer its delegation to the Chief Executive of the OPCC.</p>
7.	CONSULTATION
7.1	None
8.	NEXT STEPS
8.1	N/a.
9.	<p>BACKGROUND DOCUMENTS Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985:</p> <ul style="list-style-type: none"> ● Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 ● Cambridgeshire Police and Crime Panel complaints procedure
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10.	APPENDICES
10.1	<i>None</i>

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