

CAMBRIDGESHIRE POLICE AND CRIME PANEL	Agenda Item No. 10
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Report of Cambridgeshire Police and Crime Commissioner

Contact Officer – Dorothy Gregson

Contact Details – cambs-pcc@cambs.pnn.police.uk 0300 333 3456

COMPLAINTS REFORM – POLICE AND CRIME COMMISSIONER’S ROLE

1. PURPOSE

- 1.1 The purpose of this report is to update the Police and Crime Panel (the “Panel”) on the proposed reforms to the police complaints system and the Police and Crime Commissioner’s (the “Commissioner”) intended position regarding the reform options.

2. RECOMMENDATIONS

- 2.1 The Panel is recommended to note the contents of this report.

3. TERMS OF REFERENCE

- 3.1 Item 6 – to review or scrutinise decisions made, or other action taken, by the Police and Crime Commissioner in connection with the discharge of the Commissioner’s functions.

Item 8 - To support the effective exercise of the functions of the Police and Crime Commissioner.

4. BACKGROUND

- 4.1 The Independent Office for Police Conduct (IOPC) Statutory Guidance defines a complaint as ‘an expression of dissatisfaction by a member of the public about the conduct of a person serving with the police’. This could be for example, about the way the person has been treated or the service he or she has received.
- 4.2 The police complaints system is the mechanism by which the public may raise their concerns about the service they receive from their police force and where professional standards are not met. The operation of the complaints system and the outcomes it achieves play an important role in ensuring that the police continue to exercise their powers fairly and legitimately in the eyes of the public.
- 4.3 The current legislation currently provides that a Commissioner must monitor all complaints made against officers and staff. The Policing Protocol is equally clear that a Commissioner must not fetter the operational independence of the police force and the Chief Constable who leads it.

5. CONTEXT AND OVERVIEW

5.1 Current roles and responsibilities for complaint handling

5.2 The IOPC oversees the whole of the police complaints system and it has a statutory duty to ensure that public confidence is established and maintained in the police complaints system. Serious complaints and conduct matters must be passed to the IOPC in line with legislation.

5.3 Cambridgeshire Constabulary (the “Constabulary”) shares a collaborated Professional Standards Department (PSD) with Bedfordshire Police and Hertfordshire Constabulary (BCH). PSD undertakes reactive and proactive investigations and management of misconduct and complaints. This is with the aim of maintaining and improving public confidence and the quality of service whilst protecting and enhancing integrity across BCH. This is undertaken by: preventing and detecting unethical behaviour, dishonesty and corruption; conducting timely and robust public complaint investigations; identifying lessons learned through investigation; and educating, promoting and supporting good practice.

5.4 The Commissioner’s current statutory role is to monitor all complaints made against the Constabulary’s officers and staff, whilst having responsibility for handling complaints against the Chief Constable. The Chief Constable manages all complaints against the Constabulary, its officers and staff, and ensures that the Commissioner is kept informed in such a way as to enable the Commissioner to discharge his statutory obligations in relation to complaints.

5.5 Currently some expressions of dissatisfaction regarding the Constabulary are made directly to the Commissioner, via the Office of the Police and Crime Commissioner (OPCC). This is dealt with in a customer focussed way to understand the matter, attempt service recovery where appropriate to do so, and or provide details as to how to complain to PSD. Once in the formal complaints process, PSD currently have all contact with the complainant and record complaints but are unable by law to resolve these outside of the complaints system.

6. COMPLAINTS REFORM

6.1 The Government introduced amendments to the complaints system within the Policing and Crime Act 2017 as part of their long term reforms to improve integrity in policing. The overarching intention of the reforms is that Commissioners will be responsible for deciding how the complaints system operates locally within the national framework provided for by the IOPC. In doing so, Commissioners will need to ensure that complaints are dealt with in a way that is proportionate, timely and in the manner which works best for the local area. Secondary legislation (regulations) and statutory guidance is needed to implement the reforms.

6.2 In practice the reforms will legitimise the idea that certain issues can be dealt with informally outside of the complaints system, where it is appropriate to do so, and where a member of the public is content, customer service issues can be handled informally. However, a member of the public will retain the right to complain if they wish. All complaints will be treated the same; there will be no distinction between what currently are direction and control (i.e decisions about how a police force is run) and conduct matters. The IOPC will continue to investigate serious and sensitive matters of police conduct, i.e those that, if proved, would justify criminal or misconduct proceedings.

6.3 The reforms consist of both mandatory and discretionary options for Commissioners regarding complaint handling, as follows:

- **Mandatory - performance of the complaints system locally.** This is the same as currently in place whereby Commissioners have a legal duty for the oversight of the complaints system by ensuring the Chief Constable has appropriate processes in place for dealing with complaints, conduct matters and Death or Serious Injury matters.
- **Mandatory – review of complaint.** The statutory duty for resolving the public complaint will rest with the Commissioner. A Commissioner will have a duty to review whether the outcome of a complaint that was dealt with by the Constabulary through local resolution¹ was reasonable and proportionate. Commissioners will not have a role in the initial resolution process. Following review, a Commissioner can make recommendations to the Chief Constable, and a Commissioner will be able to monitor how those recommendations have been considered. Recommendations could include an apology to the complainant or that any property seized from the complainant be returned.
- **Optional – contact with complainant and recording of complaint.** A Commissioner has responsibility for all statutory duties of the complaint system regarding contact with the complainant, acting as a single point of contact for the complainant. Currently undertaken by PSD, however the Commissioner possibly has initial contact with complainants through his office and either try to resolve low level dissatisfaction and or directly pass onto PSD or the complainant with contact details for PSD.

7. IMPLEMENTATION OF REFORMS

- 7.1 In respect of the reforms, the Commissioner will be undertaking the mandatory requirements i.e the oversight and review role, only. This will enable the Commissioner to establish arrangements that he believes are the most appropriate and proportionate way to deal with the complaints system at a local level to respond effectively to the needs of the community. This also recognises and respects the operational independence between himself and the Constabulary, and provides value for money in respects of costs to his office in dealing with complaints.
- 7.2 Current indications from the Home Office are that they are aiming to have a final set of regulations and statutory guidance completed in spring 2019. The second stage will be a mobilisation or preparation period for stakeholders i.e IOPC, PSD, Commissioners, which the Home Office expect to be six months before the reforms 'go live'. Therefore, no implementation date can be given currently. The OPCC will continue to work with PSD to embed the reforms within BCH and to prepare the Commissioners for the review role.
- 7.3 The Commissioner will continue to deal with any expressions of service dissatisfaction in the same manner as outlined in paragraph 5.5 above.
- 7.4 In the Home Office's response to the consultation on '*Improving police integrity: reforming the police complaints and disciplinary systems*', it was reported that some Police and Crime Panels felt that the reforms may lead to an increase in the number of complaints against Police and Crime Commissioners.

¹ Complaints are considered suitable for local resolution when the conduct complained about would not justify bringing criminal or disciplinary proceedings

8. BACKGROUND DOCUMENTS

Policing and Crime Act 2017

<http://www.legislation.gov.uk/ukpga/2017/3/contents/enacted>

'Professional Standards and Complaint Handling – April 2017 to March 2018',
Agenda Item 5.0, 13th September 2018

<http://www.cambridgeshire-pcc.gov.uk/wp-content/uploads/2018/07/18-09-13-BCB-Agenda-Item-5.0-Professional-Standards-and-Complaints-Handling-April-2017-to-March-2018.pdf>

'Improving police integrity: reforming the police complaints and disciplinary systems',
Home Office, March 2015

<https://www.gov.uk/government/consultations/improving-police-integrity-reforming-the-police-complaints-and-disciplinary-systems>