

<b>CAMBRIDGESHIRE POLICE AND CRIME PANEL</b>	<b>Agenda Item No. 8</b>
<b>23<sup>rd</sup> March 2022</b>	<b>Public Report</b>

## Report of Police and Crime Commissioner for Cambridgeshire and Peterborough

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### POLICE AND CRIME COMMISSIONER'S APPROACH TO COMPLAINTS AND CONDUCT

<b>1.</b>	<b>PURPOSE</b>
1.1	The purpose of this report is to share with the Cambridgeshire Police and Crime Panel (the “Panel”) details of the Police and Crime Commissioner’s (the “Commissioner”) approach to complaints and conduct.
<b>2.</b>	<b>RECOMMENDATION</b>
2.1	The Panel is recommended to note the contents of this report.
<b>3.</b>	<b>TERMS OF REFERENCE</b>
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.
<b>4.</b>	<b>BACKGROUND &amp; LEGISLATION</b>
4.1	The model of policing we have across the country, is based upon public co-operation. Confidence in policing relies upon the police behaving in a way which maintains the support of the public. Through the Ethical Policing theme of the Police and Crime Plan 2021-24, the Commissioner has outlined the importance of, and his commitment to, holding the Chief Constable to account for ensuring officers and staff across the Constabulary, carry out their roles in line with the standards of professional behaviour expected of all those within policing.
4.2	The Commissioner is clear that where standards fall short of expectations, or where something could have been done better, that the Chief Constable has in place processes which mean that complaints will be dealt with fairly and that the outcome is reasonable in the circumstances and lessons can be learnt for the future. This approach is underpinned by the reformed complaints system.
4.2	The Policing and Crime Act 2017 sets out the principle of the reformed complaints system. Those reforms set about to introduce: <ul style="list-style-type: none"> <li>• a more customer-focused police complaints system that focuses on resolving issues to the satisfaction of the complainant in a timely fashion, rather than looking for officers to blame;</li> </ul>

	<ul style="list-style-type: none"> <li>• a more transparent and independent police complaints system, that has effective local oversight to provide the public with clear information;</li> <li>• a simpler complaints system that is easier to understand;</li> <li>• a system which enables the PCC and Chief Constable to identify patterns of dissatisfaction being raised and allows them to address any systemic issues.</li> </ul>
4.3	The Independent Office for Police Conduct (IOPC) defines a complaint as, “any expression of dissatisfaction with a police force that is expressed by, or on behalf of, a member of the public. It must be made by a person who meets the definition of a complaint. There must also be some intention from the complainant to bring their dissatisfaction to the attention of the force or local policing body. A complaint does not have to be made in writing, nor must it explicitly state that it is a complaint for it to be considered as one”.
4.4	The Commissioner has a duty to be open, transparent, and accountable. He also has a legal responsibility to monitor all complaints made against all Cambridgeshire Constabulary officers and staff, whilst also having specific responsibility for handling complaints made against the Chief Constable.
4.5	The Commissioner is also responsible for handling the reviews (i.e. appeals against the outcome) of less serious misconduct cases dealt with by the Constabulary.
4.6	<p>Since February 2020 PCCs have been required to adopt one of three models for their complaint-handling responsibilities.</p> <p>The Commissioner chose to adopt Model 1 which gives the Commissioner responsibility for scrutinising all aspects of force complaint handling, handling complaints which concern the conduct of the chief officer and for conducting reviews of complaint handling in cases resolved by the force where the complainant remains unhappy.</p> <p>In addition to the requirements listed in Model 1, Model 2 also gives PCCs responsibility for handling the recording stage of the complaint process. This gives the PCC responsibility for determining whether a complaint should be recorded or not, allowing them to resolve some complaints without recording and therefore outside the formal system.</p> <p>Model 3 holds the same requirements as Model 2, plus the added responsibility for keeping complainants informed as their complaint progresses through the system. The additional complaint-handling functions listed in Models 2 and 3 are currently performed by Cambridgeshire Constabulary’s Professional Standards Department (PSD), whilst the Commissioner retains oversight of the Constabulary’s handling of complaints.</p>
<b>5.</b>	<b>THE APPROACH</b>
5.1	<p><b><u>The Independent Office for Police Conduct</u></b></p> <p>The IOPC oversees the police complaints system in England and Wales. They independently investigate the most serious and sensitive matters, albeit Cambridgeshire’s Professional Standards Department (PSD) do deal with some of these.</p>
5.2	To enable openness, transparency and accountability, the Elected Local Policing Bodies (Specified Information) (Amendment) Order 2021 was implemented in May 2021. The Commissioner is bound by the terms of this order, and this requires the Commissioner to

	<p>publish specified information. This includes information relating to the Constabulary's complaint handling. The Commissioner publishes on his website the following information;</p> <ul style="list-style-type: none"> <li>• Quarterly data in relation to Cambridgeshire Constabulary, published by the IOPC.</li> <li>• Annual statistics report: Police complaints statistics, published by the IOPC.</li> <li>• A report setting out details of how the elected local policing body has fulfilled its duty. This includes; <ul style="list-style-type: none"> <li>○ Commissioner's Assessment of performance in holding the Chief Constable to Account in respect of Complaints</li> <li>○ Commissioner's Assessment of performance in relation to Complaint Reviews</li> </ul> </li> </ul>
5.3	<p>To provide assurance about the work of the IOPC and the progress of complaints made against all Cambridgeshire Constabulary officers and staff, the Commissioner, and the Chief Executive Officer (CEO) of the Office of the Police and Crime Commissioner (OPCC) hold regular meetings with stakeholders. This includes;</p> <ul style="list-style-type: none"> <li>• Meetings with Staff Associations and Unions so that they can raise issues for discussion with the IOPC</li> <li>• Meetings with the IOPC, which focus upon specific cases, with the Commissioner seeking assurance that ongoing investigations are being undertaken expeditiously. This process also provides an opportunity to raise issues about the performance of the Constabulary, which the Commissioner can then address with the Chief Constable through the Business Coordination Board (BCB).</li> </ul>
5.4	<p>In February 2020, new legislation introduced a requirement to provide updates on the progress of investigations to interested parties. The Commissioner is an interested party and should receive these letters from both the IOPC and PSD.</p>
5.5	<p><b><u>Complaints against the Commissioner:</u></b></p> <p>The Police and Crime Panel has responsibility for handling complaints against the Commissioner or the Deputy Police and Crime Commissioner. The Panel has delegated certain responsibilities for complaint handling to the Commissioner's CEO in his role as the Monitoring Officer. Details of the complaints process is included on the Commissioner's Website and the outcome of complaints made is also detailed on the website.</p> <p>Between 1 April 2021 and 28 February 2022, details relating to complaints received against the Commissioner are as follows;</p> <ul style="list-style-type: none"> <li>• Total number of complaints received: <b>0</b></li> </ul>
5.6	<p><b><u>Complaints against the Chief Constable</u></b></p> <p>The PCC is responsible for complaints made against the Chief Constable.</p> <p>More serious complaints above the threshold set out in statutory guidance are referred to the IOPC for investigation, but they must report back to the PCC for subsequent action.</p> <p>Following receipt of a complaint against the Chief Constable the OPCC will assess whether the complaint falls within the scope of the Policing and Crime Act 2017 and the complainant's eligibility to make a complaint. Also, whether the matter relates to conduct and or death or serious injury and whether the complaint should be recorded. Local</p>

	<p>Policing Bodies (the OPCC) are the appropriate authority only when a complaint is about the conduct of a Chief Constable. If the complaint relates to decisions in general or about decisions delegated by the Chief Constable these matters will be referred to the Constabulary's Incident Review Team (IRT) or Complaints Review Team (CRT) for them to resolve or, if not resolved, forward to PSD to be dealt with as a local complaint.</p> <p>Complaints will be dealt with in accordance with the March 2021 IOPC Statutory Guidance on the handling of complaints. In certain circumstances the OPCC will, when required, refer the matter to the IOPC for independent consideration. The OPCC will inform the complainant of their decision whether to record the complaint or not and the reasons behind the decision. The complainant will be informed in writing of any outcome as well as any right of appeal.</p> <p>Between 1 April 2021 and 28 February 2022, details relating to complaints received against the Chief Constable are as follows;</p> <ul style="list-style-type: none"> <li>• Total number of complaints received: <b>2</b></li> <li>• Number of complaints recorded under schedule 3 (meet threshold for CC complaint): <b>1</b> (Outcome: service found to be acceptable)</li> <li>• Number of complaints not recorded under schedule 3 (do not meet threshold for CC complaint): <b>1</b></li> <li>• Number of complaint outcomes appealed to IOPC: <b>1</b> (Outcome: service found to be acceptable, not upheld)</li> </ul>
5.7	<p><b><u>Complaints against members of the Constabulary</u></b></p> <p>Aside from the Commissioner's responsibilities in relation to the Chief Constable, the Commissioner also has a legal responsibility to monitor all complaints made against all Cambridgeshire Constabulary officers and staff. Accepting that the IOPC play a role in independently investigating serious and sensitive matters, the reality is that the majority of issues of dissatisfaction or complaints are handled by the Constabulary.</p>
5.8	<p>In the context of the police complaints system, the Constabulary have implemented a customer-focused approach to handling any expression of dissatisfaction in a timely fashion. The Incident Review Team (IRT) and Complaints Review Team (CRT) seek to resolve initial expressions of dissatisfaction at an early stage. It is recognised that prompt action can resolve expressions of dissatisfaction. It also recognised that both the IRT and the CRT may be unable to resolve expressions of dissatisfaction, and this may result in PSD recording the matter as a complaint.</p>
5.9	<p>The Police Reform Act 2002 outlines who can complain and what can be complained about. The Commissioner monitors progress of these complaints through mechanisms outlined within this paper. Upon finalisation the complainant receives a letter outlining the outcome and is provided an opportunity for the handling of the complaint to be reviewed by the relevant review body. Generally, this request must be made to the relevant review body within 28 days. For most complaints managed by Cambridgeshire PSD, the relevant review body to undertake a review is the Commissioner.</p>
5.10	<p><b><u>Complaint Reviews:</u></b></p> <p>A review is all about the handling of the complaint. The review considers whether the outcome of the handling of the complaint was reasonable and proportionate. It does not explore the handling of the matter or incident that led to the complaint being made. Where it is found that the outcome of the complaint is not reasonable and proportionate,</p>

	the OPCC will uphold the review and may make certain recommendations to the Chief Constable.
5.11	The OPCC undertake reviews on behalf of the Commissioner. These are undertaken by the Review Officer and quality assured by a member of the OPCC's Senior Management Team (SMT) before finalisation. Once finalised, the complainant is informed of the outcome. Once a decision has been finalised the only remaining option for the complainant, if still dissatisfied with the outcome, is through a judicial review.
5.12	<p>Between 1 April 2021 and 28 February 2022, details relating to the number of complaint review requests received:</p> <ul style="list-style-type: none"> <li>• Total number of complaint review requests received: <b>46</b></li> <li>• Number of valid requests: <b>33</b> (30 Completed, 3 Ongoing, 0 Not started)</li> <li>• Number of invalid requests: <b>3</b> (2 Requests made outside of 28-day timescale, 1 Cambs OPCC was not the correct relevant review body)</li> <li>• Number of requests not progressed due to no response from complainant (unable to confirm review request): <b>10</b></li> <li>• Number of complaint reviews upheld: <b>2</b>. The resulting recommendations made to the Constabulary included, for the Constabulary to issue an apology, and that the complaints outcome should find that the service was not acceptable (this was agreed and changed by the Constabulary).</li> </ul>
5.13	<p><b><u>Professional Standards Reporting Concerns (Whistleblowing)</u></b></p> <p>The Constabulary have in place a policy and procedure which allows staff working within the Constabulary to report concerns under the protection afforded by the Public Interest Disclosure Act 1998.</p> <p>The procedure applies to Police Officers, Police Staff, contractors, or others acting on behalf of the Constabulary whether full-time or part-time, fixed term and permanent staff, seconded staff, volunteers (including the Special Constabulary), temporary and agency staff, contractors, self-employed consultants, and associate tutors. It includes the Commissioner, his deputy, and members of the OPCC.</p> <p>The Professional Standards Reporting Concerns (Whistleblowing) procedure has been developed to ensure that all reported concerns are considered and actioned according to the principles and standards of the Code of Ethics. Where possible, all matters are dealt with on a confidential basis. The Professional Standards Department (PSD) triage these concerns. This includes anonymous information or intelligence. PSD assess them, consider threat, harm, and risk, and then action them through an established tasking and coordination process. Conduct matters will be managed by PSD. The OPCC receive assurance on behalf of the Commissioner through their membership of the PSD Governance Board, which is held quarterly and is chaired by the Deputy Chief Constable.</p> <p>The Commissioner is the appropriate authority in respect of complaints made against (or alleged misconduct by) the Chief Constable, so specific concerns about the Chief Constable are raised directly with the police and crime commissioner.</p> <p>Where the concern raised is not conduct / criminal then these are passed to the relevant area of business e.g., concerns re people management issues are passed to Human Resources for action. Concerns about the Commissioner or his deputy as well as</p>

	<p>members of the OPCC are passed to the CEO for consideration. If the concern relates to suspected financial impropriety in the force, the matter can be raised with the Commissioner.</p> <p>Between 1 April 2021 and 28 February 2022, no concerns about the Chief Constable have been raised through this process to the Commissioner. No concerns about the Commissioner, his deputy, or members of the OPCC have been passed to the CEO. No concerns about financial impropriety have been raised with the Commissioner.</p>
5.14	<p><b><u>Oversight of the Police Complaints Process</u></b></p> <p>Additional mechanisms are in place to provide further assurance to the Commissioner. These include.</p> <ul style="list-style-type: none"> <li>• PSD Governance Board (OPCC is a member of this Board)</li> <li>• IOPC Oversight Joint OPCCs/PSD Meeting – Beds/Herts/Cambs</li> <li>• OPCC Professional Standards Department champion</li> </ul> <p>These assurance arrangements receive quantitative and qualitative reports, which includes the Constabulary's quarterly performance in relation to Police Complaints, provided by the PSD Governance Board and published on the Commissioners Website. Here trends and patterns of dissatisfaction are identified and on behalf of the Commissioner the OPCC can address systemic issues identified. The IOPC Oversight meetings also provide details of emerging trends and lessons learned.</p>
5.15	<p>The Commissioner acknowledges that complaints are the end point and that to enhance confidence in policing there is a need to be proactive. The Commissioner's Ethical Policing Theme includes deliverables developed to provide this proactivity.</p>
5.16	<p><b><u>Ethical Policing Theme – Community Scrutiny Panels</u></b></p> <p>To provide independent scrutiny of the Constabulary's use of stop and search and use of force, the OPCC support two Community Scrutiny Panels, who meet monthly. These scrutiny panels are conducted within the Constabulary. They were established in 2021 and play a significant part in providing assurance under the Commissioner's Ethical Policing Theme. These countywide scrutiny panels comprise of committed volunteers who live, work or study within Cambridgeshire. The scrutiny panels are chaired by an independent volunteer who is responsible for selecting incidents for scrutiny and conducting the panel meetings.</p>
5.17	<p>The Scrutiny Panels review the method and legality of stop and searches and the appropriateness of the use of force. Scrutiny can include unarmed defence tactics, the use of physical restraint, such as handcuffs, and the use of other police equipment, including incapacitant spray. After examining records, officer statements and body worn video footage, the Scrutiny Panels provide direct feedback to the Constabulary, based on what they have discussed. This feedback provides an opportunity to help the Constabulary shape the organisation so they can serve our communities in the manner which they expect and deserve. The feedback is contained within minutes of the meetings with actions tracked and report back through the Chair of the Scrutiny Group.</p> <p>The Scrutiny Panels also receive quarterly reports relevant to their area of scrutiny. These are provided through the PSD Governance Board.</p>
5.18	<p>To provide assurance of the effectiveness of these scrutiny panels, the OPCC provide the Commissioner with an overview of the feedback, minutes of the meeting and</p>

	<p>progress against agreed action. An Annual General Meeting (AGM) is scheduled to take place 22 March 2022. It will consider the first year of the scheme and will consider opportunities to enhance the effectiveness. This review is a deliverable being managed by the OPCC.</p>
5.19	<p><b><u>Ethical Policing Theme – Independent Custody Visitors Scheme</u></b></p> <p>Section 51 of the Police Reform Act 2002 places the responsibility for organising and overseeing the delivery of independent custody visiting with the Commissioner, in consultation with chief officers. The Commissioner must ensure that they have in place robust and effective procedures for establishing and maintaining their independent custody visiting schemes, including the allocation of appropriate resources to this function. Through the OPCC, the Commissioner has allocated resources, who make arrangements for detainees to be visited by Independent Custody Visitors (ICV). Such arrangements includes access to detainees, examination of records, inspection of detention facilities and provision of a Code of Practice.</p> <p>Independent Custody Visiting meets other obligations around the European Convention on Human Rights, and the Optional Protocol to the Convention against Torture (OPCAT).</p>
5.20	<p>Independent custody visiting is the well-established system whereby volunteers attend police stations to check on the treatment of detainees and the conditions in which they are held and that their rights and entitlements are being observed. It offers protections and confidentiality to detainees and the police and reassurance to the community at large. The scheme in Cambridgeshire, supported by the Constabulary has regard to the National Standards and the Commissioner is responsible for:</p> <ul style="list-style-type: none"> <li>• Publicising the work of their schemes.</li> <li>• Developing policies to maintain and enhance the effectiveness of schemes, including the frequency with which visits should be carried out.</li> <li>• Ensuring the maintenance of appropriate organisational arrangements and visiting patterns.</li> <li>• The recruitment, approval, and training of independent custody visitors.</li> <li>• Establishing and maintaining effective systems for feeding back to the police and crime commissioner on a regular basis the output from visits and putting in place the necessary action to respond to issues as they arise.</li> <li>• Facilitating meetings of their independent custody visitors to discuss their work and issues arising from it.</li> <li>• Quality assurance of ICV Report forms.</li> <li>• Monitoring performance against: <ul style="list-style-type: none"> <li>• The agreed frequency of visits</li> <li>• The number of occasions on which detainees refuse to speak to visitors;</li> <li>• Remedial and rectification of actions taken by the police in response to issues raised by ICVs.</li> </ul> </li> </ul>
5.21	<p>Additional mechanisms are in place to provide further assurance to the Commissioner. These include the provision of clear guidance, e.g. The College of Policing’s Authorised Professional Practice (APP) as well as assurance provided by;</p> <ul style="list-style-type: none"> <li>• Independent Reviews - e.g. the Angiolini review (an independent review published in 2017 that looked into serious incidents and deaths in custody, undertaken by Rt Hon. Dame Elish Angiolini DBE QC).</li> </ul>

	<ul style="list-style-type: none"> <li>• Police and Criminal Evidence (PACE) Strategy Group</li> <li>• Her Majesty's Inspectorate of Constabulary and Fire &amp; Rescue Services (HMICFRS) &amp; Her Majesty's Inspectorate of Prisons (HMIP)</li> <li>• Inquests</li> <li>• IOPC</li> </ul>
5.22	<p><b><u>Legally Qualified Chairs</u></b></p> <p>Legally Qualified Chairs (LQC) were brought into being on 1 January 2016 (as a result of the Police (Conduct) (Amendment) Regulations 2015). They are appointed by Police and Crime Commissioners (PCCs), from across the Eastern Region, to serve in a pool of LQCs from which Cambridgeshire PSD can draw upon to chair misconduct hearings. Cambridgeshire OPCC currently manage this pool of LQCs on behalf of the Eastern Region.</p> <p>LQCs must satisfy the judicial appointment eligibility condition on a 5-year basis as set out in Section 50 of the Tribunals, Courts and Enforcement Act 2007.</p> <p>Appointees were sought for a four-year term with the option at the discretion of the PCCs for the term to be extended for a further four-year period. A further recruitment process occurred in 2019. The Terms &amp; Conditions were updated in preparation for the New 2020 Regulations which came into effect on 1<sup>st</sup> Feb 2020.</p> <p>LQC Cambs hearings held since start of New Regs in Feb 2020, these include hearings under the Old Regs:</p> <p>Cambs Panel attendances for LQCs since 1 February 2020. 7</p>
6.	<p><b>BACKGROUND DOCUMENTS</b></p> <p>Police Reform and Social Responsibility Act 2011  <a href="http://www.legislation.gov.uk/ukpga/2011/13/contents">http://www.legislation.gov.uk/ukpga/2011/13/contents</a></p> <p>Statutory Guidance on the Police Complaints System 2020.  Independent Office for Police Conduct  <a href="http://www.policeconduct.gov.uk">Statutory guidance on the police complaints system (policeconduct.gov.uk)</a></p> <p>BCH Scheme of Governance.  <a href="http://www.bch.gov.uk">Scheme of Governance – July 2015</a></p>