



Police and Crime Panel

Date **Friday 30 November 2012**
Time **11.00 am**
Venue **Committee Room 1B, County Hall, Durham**

Business

Part A

**[Items during which the Press and Public are welcome to attend.
Members of the Public can ask questions with the Chairman's
agreement]**

1. Minutes of the meetings held on the 12 October 2012 and 22 October 2012 (Pages 1 - 6)
2. Declarations of interest, if any
3. Introduction of the Police and Crime Commissioner
4. The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 - Report of Monitoring Officer (Pages 7 - 38)
5. Supporting Guidance from the local Government Association - Report of Assistant Chief Executive (Pages 39 - 42)
6. Letter from the Minister of State for Policing and Criminal Justice - Report of Monitoring Officer (Pages 43 - 46)
7. Such other business, as in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

Colette Longbottom
Monitoring Officer

County Hall
Durham
22 November 2012

To: **The Members of the Police and Crime Panel**

Durham County Council

Councillors L Hovvels (Chairman), J Armstrong, D Boyes, M Campbell,
D Stoker, G Huntington and A Laing

Darlington Borough Council

Councillors I Haszeldine, S Harker and B Jones

Independent Co-opted Members

N Vaulks and K Larkin-Bramley

Contact: Ros Layfield

Tel: 03000 269708

DURHAM COUNTY COUNCIL

At a Meeting of **Shadow Police and Crime Panel** held in Committee Room 1B, County Hall, Durham on **Friday 12 October 2012 at 9.30 am**

Present:

Councillor L Hovvels (Chairman)

Members of the Panel:

Councillors J Armstrong, D Boyes, M Campbell, A Hopgood (substitute for G Huntington), A Laing and D Stoker (Durham County Council)

Councillors I Haszeldine, B Jones (Darlington Borough Council)

Apologies:

Apologies for absence were received from Councillors S Harker and G Huntington

1 Minutes

The Minutes of the meeting held on 22 August 2012 were confirmed as a correct record and signed by the Chairman.

The Chairman informed the Panel that, following its last meeting, a letter of resignation had been received from Councillor D J Southwell. Councillor D Stoker had been appointed by Durham County Council to fill the vacancy.

2 Declarations of Interest

There were no declarations of interest.

3 Development of the Panel's Work Programme Update

The Panel considered a report of the Assistant Chief Executive which provided an update on the development of the Panel's Work Programme (for copy see file of Minutes).

Councillor Jones referred to the meetings listed in the report all being held at County Hall, Durham and reminded the Panel that it had agreed venues for future meetings would be at both Durham County Council and Darlington Borough Council offices. The Overview and Scrutiny Manager replied that liaison would take place with officers at Darlington Borough Council for meetings of the Panel to be held after 30 November 2012.

Resolved:

That the report be noted.

4 The Police and Crime Panel's (Precepts and Chief Constable Appointments) Regulations 2012, and Guidance on Confirmation Hearings

The Panel considered a joint report of the Assistant Chief Executive and Monitoring Officer that provided information on Statutory Instrument 2012, No 2271 'The Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012' and a 'Guidance on Confirmation hearings' document published by the Centre for Public Scrutiny and the Local Government Association (for copy see file of Minutes).

Resolved:

That the recommendations contained within the report be approved.

5 Protocol between Police and Crime Panel, and Overview and Scrutiny Committees

The Panel considered a report of the Assistant Chief Executive which sought agreement on working principles between the Durham Police and Crime Panel and Overview and Scrutiny arrangements at Durham County Council and Darlington Borough Council (for copy see file of Minutes).

The Overview and Scrutiny Manager informed the Panel that, if approved, the report would be taken to the first meeting of the Police and Crime Panel to be held on 22 October 2012.

Resolved:

That the report be approved.

6 Exclusion of the Public

Resolved:

That under Section 100A(4) of the Local Government Act, 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A to the said Act.

7 Appointment of Independent Co-opted Members

The Panel considered a report of the Monitoring Officer which recommended the appointment of two people to the Police and Crime Panel (for copy see file of Minutes).

Resolved:

That the report be approved.

DURHAM COUNTY COUNCIL

At a Meeting of **Police and Crime Panel** held in Committee Room 2, County Hall, Durham on **Monday 22 October 2012 at 11.00 am**

Present:

Councillor L Hovvels (Chairman)

Members of the Panel:

Councillors J Armstrong, D Boyes, M Campbell, D Stoker and G Huntington (Durham County Council)

Councillors I Haszeldine and B Jones (Darlington Borough Council)

K Larkin-Bramley and N Vaulks (Independent Co-opted Members)

Other Members in attendance:

Councillors A Hopgood and H Scott

Apologies:

Apologies for absence were received from Councillors S Harker and A Laing

1 Declarations of interest

There were no declarations of interest.

2 Panel Arrangements

The Panel considered a report of the Monitoring Officer which set out the arrangements for Durham Police and Crime Panel, including details relating to membership, casual vacancies, independent members, terms of office, elected members, allowances and validity of proceedings (for copy see file of minutes).

Mr Vaulks asked why Independent Members were not included in the Membership of the Panel at paragraph 2.2 of the Panel Arrangements at Appendix 2 and suggested that Paragraphs 7 and 8 of the Arrangements should be more reflective of the role of Independent Members.

The Monitoring Officer replied that detailed reference to Independent Members was outlined at section 4 of the Panel Arrangements. It was not appropriate to include Independent Members at paragraph 2.2 because it was the role of the Panel to appoint Independent Members, not the role of the constituent local authorities.

Resolved:

That the recommendations contained within the report be approved.

3 Terms of Reference

The Panel considered a report of the Monitoring Officer which set out the Terms of Reference for the Durham Police and Crime Panel (for copy see file of minutes).

The Monitoring Officer informed the Panel that the Terms of Reference were set out in statute and therefore could not be amended by the Panel. However, the Rules of Procedure could be amended in the way that they dealt with the Terms of Reference.

Resolved:

That the report be agreed.

4 Rules of Procedure

The Panel considered a report of the Monitoring Officer which advised of the need for Rules of Procedure, advised of the necessary contents of those Rules and presented Rules of Procedure for approval (for copy see file of minutes).

Mr Vaulks sought clarification on paragraph 8.1 of the Rules. The Monitoring Officer replied that this paragraph should be amended to remove the words 'the notice of motion only if' from the second line of the paragraph.

In response to a question from Councillor Huntington regarding paragraph 5 of the report, the Monitoring Officer informed the Panel that these were the functions which the Panel could not be discharged to a committee or sub-committee of the Panel.

Ms Larkin-Bramley suggested, and the Panel agreed, that the Rules of Procedure be reviewed after the Panel had been operating for 12 months.

Members expressed some concern at the quorum for the Panel being only a quarter of the membership, suggesting that this level was too low. The Monitoring Officer replied that the Panel would need to have a number of meetings over the forthcoming months, some of which may be called at relatively short notice, which may cause problems if the quorum was increased. Councillor Armstrong suggested that the Panel be given time to bed down and that issues such as this be considered in May of next year, when examples of best practice from other PCP's could be considered.

Resolved:

That the report be agreed and the Rules of Procedure be reviewed in May 2013.

5 Joint working arrangements between the Police and Crime Panel, and Overview and Scrutiny Committees

The Panel considered a report of the Assistant Chief Executive which sought agreement on the joint working arrangements between the Durham Police and Crime Panel and Overview and Scrutiny arrangements at Durham County Council and Darlington Borough Council (for copy see file of Minutes).

Resolved:

That the recommendations contained within the report be approved.

The Chairman of the meeting was of the opinion the following item of business was of sufficient urgency to warrant consideration because of the need to respond to an approach made by Cleveland PCP.

6 Cleveland PCP

The Overview and Scrutiny Manager informed the Panel that a request had been received from Cleveland PCP requesting observer status at Durham and Darlington PCP, such an arrangement to be reciprocal.

Members of the Panel felt that at such an early stage in the development of PCP's there would be no added value to such arrangement.

Resolved:

That the request from Cleveland PCP be declined.

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Police and Crime Panel

30 November 2012

The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012

Report of Colette Longbottom, Head of Legal and Democratic Services

Purpose of the Report

- 1 To advise the Panel of its obligations under the Elected Policing Bodies (Complaints and Misconduct) Regulations 2012 ("the Regulations").
- 2 To propose steps forward to comply with those Regulations.

Background

- 3 There are a number of functions connected with complaints and conduct matters which are the responsibility of the Panel.

The Initial Handling of Complaints and Conduct Matters (part 2 of the Regulations) – Serious Complaints

- 4 Where a complaint or conduct matterⁱ about the PCC comes to the attention of the Panel (or the PCC) it has a duty to obtain and preserve the evidence and comply with any directions from the Independent Police Complaints Commission.
- 5 A new complaint has to be recorded by the Panel, unless it has already been dealt with through criminal proceedings. If the Panel or anyone else decides not to refer or record a complaint, then it must notify the complainant of the decision to take no action on the grounds for that decision.
- 6 The Panel must also record a new conduct matter. The IPCC can also direct the Panel to record a conduct matter which has come to its attention.
- 7 A serious complaint or conduct matter must be referred to the IPCC "as soon as is practicable and in any event not later than the end of the following day when it becomes clear that it should be referred" (Regulation 13). A serious complaint is defined as "a qualifying complaint made about conduct which

ⁱ As defined by the IPCC "any matter which is not and has not been the subject of a complaint where there is an indication that a person serving with the Police may have committed a criminal offence or behaved in a manner which would justify bringing criminal proceedings".

constitutes or involves, or appears to constitute or involve, the commission of a criminal offenceⁱⁱ.

- 8 The Panel has to notify the complainant, and if appropriate, the person complained against that the matter has been referred. The IPCC then has to decide whether or not to investigate or refer the matter back to the Panel to handle. Again the parties, if appropriate, have to be notified of the decision.
- 9 For complaints not being dealt with by the IPCC, the Panel can decide to deal with this by informal resolution under part 4 of the Regulations.
- 10 The Panel can decide not to apply the Regulations in certain circumstances. These are in summary:-
 - (i) Where the complaint is an employment issue;
 - (ii) It is more than 12 months old;
 - (iii) The matter is already the subject of a complaint ;
 - (iv) It is anonymous, vexatious, oppressive or an abuse of the procedures, or repetitious.
- 11 A complaint can be withdrawn or discontinued by a complainant, in which case the relevant parties have to be notified and the fact recorded. If the complaint relates to a conduct matter, then the matter may still be investigated under the Regulations if it is in the public interest to do so. Again, the parties, if appropriate, have to be notified of any decision.
- 12 The PCC must notify the Panel of any allegation, investigation or proceedings in relation to their conduct outside England and Wales and in such circumstances, the Panel can handle the manner in whatever manner it thinks fit.
- 13 The Panel must also nominate a point of contact for the Panel to whom cases can be referred. This point of contact may or may not be the Panel. This depends upon the extent to which the Panel has delegated its functions.
- 14 The Regulations enable the Panel to delegate all of the powers or duties imposed on it by these Regulations (with the exception of part 4, Resolution of other Complaints). The Chief Executive of the PCC needs to agree to such delegation and the Chief Executive of the PCC has indicated that she is willing to accept the delegation in the following term; "the initial receipt of complaints, and referral to the members of the Police and Crime Panel, if it appears to be of any substance".

Resolution of Other (Non-Criminal) Complaints

- 15 If a complaint concerns the conduct of the PCC or their Deputy, then the Panel must make arrangements for the complaint to be subject to informal resolution.

ⁱⁱ Schedule 7 paragraph 2(6) of the Police Reform and Social Responsibility Act 2011.

- 16 The informal resolution may be conducted by the Panel itself, a sub-committee of the Panel, a single member of the Panel or another person (which can not be the PCC) appointed by the Panel (Regulation 28(3)). In a case where a sub-committee or person is appointed, the arrangements made by the Police and Crime Panel may include arrangements for the complaint to be remitted at any time to the Panel as a whole (whether at the request of the appointed sub-committee or person, the complainant or the person complained against, or otherwise), if the Panel is of the opinion that this will lead to a more satisfactory resolution of the complaint.
- 17 According to Regulation 28(7), a complaint can not be formally investigated, although requiring the PCC or Deputy to provide information or documents, or summoning him or her to appear before the Panel, do not count as an investigation for these purposes (and is therefore permissible)
- 18 Other steps designed to gather information about, or corroborate the complaint, such as taking statements from witnesses seeking documents from other parties, are prohibited.
- 19 If the person complained against chooses not to comment, this has to be recorded. The Panel can not offer an apology for the PCC's conduct unless the PCC has admitted the conduct in question, and agreed to the apology.
- 20 The Panel has to keep a record of the outcome of the procedure and send a copy to the parties. Details of the record can be published, but only after the parties have been given an opportunity to make representations, that they have been considered and the Panel is of the opinion it is in the public interest to do so.

The Provision and Recording of Information (Part 5 of the Regulations)

- 21 The Panel has to tell the PCC the name and address where complaints are to be sent, and the PCC has to publish the information as required by the Panel.
- 22 The Panel has to send a copy of the record of the complaint to the complainant and a copy of the complaint to the person complained against. The copy of the complaint may be anonymised, or may not be, provided if to do so might prejudice a criminal investigation or proceedings or would be contrary to the public interest. Any such decision must be kept under review.
- 23 All records have to be kept by the Panel as required by the Regulations. The Panel has to keep records of every complaint and purported complaint that is made to it. Every conduct matter recorded by it and every exercise of the power or performance of the duty under the Regulations.
- 24 The Panel has a duty to provide the IPCC with any information, documents or evidence that it requires, in the form and time specified. The Panel must also allow the IPCC access to premises, either in relation to an investigation, or so that the IPCC can examine the efficiency and effectiveness of the arrangements for handling complaints.
- 25 Complainants and any persons complained about should be sent a copy of any resolution (Regulation 28(12)).

- 26 If at any stage there is a complaint about the way in which the Panel was carried out delegated the above functions, the matter can be referred to the Local Government Ombudsman, provided the matter has been subject to local complaint procedures which have come to a conclusion.

Delegation of Functions

- 27 As said previously, the Regulations allow the panel to delegate some work to sub-groups, other bodies or individuals including the Chief Executive of the PCC.

- 28 The options for delegation are:-

Option 1: Panel/Host Authority keeps all Functions

In this case the Panel can do everything specified above. If this is the preferred option, the Panel will need to satisfy itself that it is able to comply with all its statutory duties, particularly in relation to the recording of complaints and conduct matters, and for referring relevant matters to the IPCC.

Option 2: Delegate receipt of complaints to Chief Executive of PCC

The receipt of complaints is a matter which the Chief Executive of the PCC has agreed to have delegated to her, and this is recommended as the most efficient way of proceeding in relation to the initial receipt of complaints.

- 29 It is recommended that the Panel delegates to the Chief Executive of the Police and Crime Commissioner, receipt of complaints and referral to the members of the Police and Crime Panel, if it appears to be of substance.
- 30 As that is the extent of the delegation which is agreed by the Chief Executive, the Panel needs to consider whether it would delegate any other functions.

Re: Of the two above options, delegation of receipt of complaints by the Chief Executive of the PCC is recommended.

Delegation of Resolution

- 31 Regulation 28 allows a Panel to delegate the resolution of non-criminal complaints, including various elements of investigation to a sub-committee, or an individual from the Panel, or a person who is not a member of the Panel. This could be, for example, a mediator.
- 32 The responsibility for informally resolving complaints can not be delegated to the Chief Executive. The Panel will need to decide, therefore, whether it would wish to retain informal resolution as a whole Panel, or delegate this to a sub-committee.
- 33 The advantage of the Panel retaining the whole function is that there is a pooling of experience brought by all the members coming together;
- 34 The disadvantages of Panel retaining the whole function are:-

1. An attempt to informally resolve an issue involving one Officer with up to twelve members, could be seen as cumbersome, confrontational and not conducive to an atmosphere of informal resolution;
 2. For a matter that may require more than one meeting, whilst diary arrangements can be easily fixed for a small Panel, ensuring continuity, this would be more difficult for a whole Panel assembly.
- 35 It is therefore recommended that the Panel consider delegating the function of informal resolution.
- 36 It is recommended at this stage, that the Panel consider delegation to a sub-committee, rather than to one person. This will enable a pooling of experience and mutual support in resolving what may be a difficult issue.
- 37 It is therefore proposed that the Monitoring Officer of the Panel, on having a complaint referred to the Panel by the Chief Executive of the PCC, be authorised to convene a sub-committee to consider the complaint and deal with it subject to agreed procedures. In conjunction with this, it is recommended that the Panel agree that informal resolution of complaints be delegated to a sub-committee of members appointed by the Monitoring Officer to the Panel. It is, however, suggested that such appointment take place after the Monitoring Officer has consulted with the Chair, or in her absence, the Vice Chair, who may request that the matter be referred to the full Police and Crime Panel instead.

A Complaints Procedure

- 38 In order to ensure consistency and compliance with the Regulations, it is necessary for the Panel to agree procedures for dealing with complaints. It is proposed that such procedures comply with guidance produced by the Local Government Ombudsman. They must also comply with the Regulations. It is also suggested that they include a provision for dealing with vexatious, repetitive or other complaints. Attached at Appendix 2 is a draft procedure for approval.

Recommendations and Reasons

- 39 It is recommended that:-
- (i) that the Panel note the report;
 - (ii) that the Panel delegates to the Chief Executive of the Police and Crime Commissioner, receipt of complaints and referral to the members of the Police and Crime Panel, if it appears to be of substance;
 - (iii) That the panel delegates the informal resolution of Part 4 complaints to a sub-committee of three members, to be selected by the Monitoring Officer after consultation with the Chair and Vice Chair who may direct that the matter referred to the full Panel.

- (iv) that the Panel agrees that the Committee Services of the host authority keep the records required by the Regulations (with the exception of the record kept by the Chief Executive of the PCC);
- (v) the Panel approves the draft procedures appended at Appendix 2;

Contact: Colette Longbottom Tel: 03000 269732

Appendix 1: Implications

Finance – None specific within this report.

Staffing - None specific within this report.

Risk - None specific within this report.

Equality and Diversity / Public Sector Equality Duty - None specific within this report.

Accommodation - None specific within this report.

Crime and Disorder - None specific within this report.

Human Rights - None specific within this report.

Consultation - None specific within this report.

Procurement - None specific within this report.

Disability Issues - None specific within this report.

Legal Implications – Within the body of the report.

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DURHAM POLICE AND CRIME PANEL

**PROCEDURE FOR DEALING WITH COMPLAINTS AND CONDUCT
MATTERS ABOUT THE
DURHAM POLICE AND CRIME COMMISSIONER, AND/ OR DEPUTY
POLICE AND CRIME COMMISSIONER (IF APPOINTED)**

1 Introduction

This procedure deals with complaints about the conduct of the Durham Police and Crime Commissioner (PCC) or Deputy Police and Crime Commissioner (DPCC), if a Deputy is appointed. This is required by the Police Reform and Social Responsibility Act 2011 (“the Act”). The appropriate regulations are the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 (“the Regulations”) and nothing in this procedure overrules the provisions of those Regulations.

References in this document to:-

- the relevant office holders
 - the Police and Crime Commissioner (PCC),
 - Deputy Police and Crime Commissioner (DPCC),
 - the person complained about,
- are to those two persons in their Office for Policing and Crime capacities primarily, although complaints may extend to their conduct in their public and private capacities.

The “IPCC” is the Independent Police Complaints Commission.

2 Role of Panel under the Regulations

The Durham Police and Crime Panel (“the Panel”) is given specific functions under the Regulations as to the handling and determination of complaints against the PCC and/ or DPCC.

The Panel is responsible for initially handling all complaints and conduct matters against the PCC or DPCC, including all serious complaints and conduct matters. Any serious complaint or conduct matter will be referred to the IPCC.

For the complaints not being dealt with by the IPCC, the Panel could determine these through informal resolution (see section 17)

The Regulations permit the Panel to delegate some of its responsibilities to the Chief Executive of the PCC’s Office, and has decided to delegate the initial receipt of complaints, and sets out later in the document the arrangements between each of the bodies involved. The Panel will retain the determination of arrangements for informal resolution, and would seek to resolve complaints swiftly using this if applicable.

3 Appropriate police and crime panel

The Regulations only confer jurisdiction on the Panel where it is the appropriate police and crime panel under the Act for the relevant office

holders in question. The Panel will be the appropriate panel for all complaints concerning the conduct of the Durham PCC and DPCC.

4 Key concepts

The legislation covers potential criminal conduct of the PCC and DPCC where a formal complaint has been made, and/or where the circumstances point to potential criminal behaviour in the absence of a formal complaint e.g. where information is available from civil legal action or press reports.

The relevant legislation contains a number of key definitions:

- A “*Complaint*” means a general complaint about the conduct of the PCC and/ or the DPCC, whether or not that conduct is potentially criminal.
- A “Recorded Complaint” means a Complaint that Police and Crime Panel (the Panel) is obliged under the Regulations to record by entry in the Recorded Complaints and Conduct Matters Register database.
- A “*Conduct Matter*” means a matter where there is an *indication* (whether from the circumstances or otherwise) that the PCC and/ or DPCC *may* have committed a criminal offence. Conduct matters can arise without a Complaint being made and must be notified to the IPCC.
- A “*Serious Complaint*” means a Complaint about the conduct of the PCC and/ or the DPCC which *constitutes* or *appears* to constitute or *involve* the commission of a criminal offence. Serious Complaints must be notified to the IPCC.

5 Evidence threshold for consideration of referral to IPCC

Complaints that are a Conduct Matter or Serious Complaints must be referred to the IPCC. The difference between a Conduct Matter and a Serious Complaint is the level of evidence present in the complaint or other circumstances (e.g. information from press reports) as to whether a criminal offence has potentially been committed by the PCC or the DPCC.

- With a *Serious Complaint* there must be evidence of conduct that constitutes or appears to constitute or involve the commission of a criminal offence.
- This is a much higher threshold than for a *Conduct Matter*, which only requires the evidence to show an *indication* that a criminal offence may have been committed.

It is not the Panel’s function to investigate or determine whether a crime has been committed; only a court of criminal jurisdiction can definitively rule on the matter. Any investigations related to a potential crime will be undertaken by the IPCC. For a criminal offence to have been committed a number of different elements constituting the offence must be present e.g. the physical facts, usually evidence of intention or lower degree of purpose, causation etc. Therefore, as part of its functions, the Chief Executive of PCC, or Panel,

(whoever this is referred to initially) will take these matters into account when coming to a view as to whether something is a Conduct Matter or a Serious Complaint. However, in neither case is the criminal law standard of proof - *beyond all reasonable doubt* – applicable, as the Regulations do not require this level of certainty.

In both cases, the Panel will consider all the circumstances but will make the decision on the basis of evidence that is likely to be *substantially below* the normal civil law standard of the *balance of probabilities*, *noting also that*:

A Conduct Matter only requires there to be an *indication* or *sign* that a criminal offence may have been committed. A mere assertion, without more, that a criminal offence has been committed is unlikely to suffice. However an assertion coupled with a fairly low degree of evidence that enough of the necessary elements required to constitute any particular offence are present is likely to be an adequate *sign* of potential criminal conduct, resulting in the matter being referred to the IPCC as a Conduct Matter; and

A Serious Complaint requires stronger evidence, as the evidence must show that there is conduct that appears to constitute or involve the commission of an offence. Therefore the level of evidence that the necessary elements of a criminal offence are present will be more than for a Conduct Matter but, again, is likely to be much less than required under the normal civil standard.

6 Conduct matters

For the purposes of the Regulations a “Conduct Matter” is a matter in the case of which there is an indication (whether from the circumstances or otherwise) that the PCC or DPCC may have committed a criminal offence in England or Wales or, although committed elsewhere, it is an offence triable in England or Wales.

A complaint does not need to have been made for a Conduct Matter to arise and to be dealt with under the Regulations.

A Conduct Matter must be recorded by the Panel, and entered into the Recorded Complaints and Conduct Matters Database (see section 10), where either:

- the Panel is notified that civil proceedings against the PCC or DPCC have been or are likely to be brought by a member of the public and which appear to involve or would involve a Conduct Matter; or,
- a Conduct Matter comes to the Panel’s attention in any other case (e.g. from a press report).

However, if the Panel is satisfied that either of the following exceptions apply it is not necessary to record a Conduct Matter:

- the matter has already been recorded as a complaint; or
- the matter has been, or is already being, dealt with by means of criminal proceedings against the PCC or DPCC: this will normally be the case where the Police have formally charged the person with a criminal offence or an information alleging an offence has been laid before a magistrate's court.

If the IPCC becomes aware of a conduct matter which has not been recorded by the Panel then the IPCC may direct the Panel to record the matter.

7 Conduct matters occurring outside England and Wales

The PCC and/ or DPCC are under an individual duty to notify the Panel of any allegation, investigation or proceedings in relation to their conduct which would otherwise be a Conduct Matter under the Regulations only by reason of the fact that the conduct in question did not occur in England or Wales. If the Panel receives such a notification from the PCC and/ or DPCC then he or she shall handle it in whatever manner (if any) that the Panel thinks fit.

Accordingly, by not later than the end of the working day following the day on which the investigation, allegation or proceedings (as above) comes to their attention, the PCC and/ or DPCC shall notify the Panel in writing of the matter.

(This obligation applies to conduct within England and Wales that took place before the person who is the PCC was elected to that office or the person appointed as DPCC was appointed.)

8 Making of Complaints about the PCC/ DPCC

A member of the public may complain (make a Complaint) about the conduct of the PCC and/or DPCC to the following people or organisations, however they are encouraged to make complaints initially to the Chief Executive of the PCC's Office. (See below for details, and complaint form that is attached at Annex 1).

- The Chief Executive of the PCC's Office;
By email:
By post: Chief Executive, PCC's Office, County Hall, Durham DH1 5UL

- The Police and Crime Panel;

By email: durhampoliceandcrimepanel@durham.gov.uk

By post: Durham Police and Crime Panel, c/o Monitoring Officer, Legal and Democratic Services, Durham County Council, County Hall, Durham DH1 5UL

- The Chief Constable;
- The relevant office holder: the PCC and/or the DPCC direct.
- Independent Police Complaints Commission

9 Recipients' duties on receipt of Complaint

Direct complaints to the Chief Executive of the PCC

The Chief Executive has been delegated responsibility by the Panel for the initial receipt of complaints, and referral to the members of the Police and Crime Panel, if there appears to be any substance in it. Within 7 days of receipt the Chief Executive shall express to the Monitoring Officer of the Panel a view as to the process for the handling of the complaint.

If there is a complaint that alleges criminal conduct, the Chief Executive will refer the matter directly to the Independent Police Complaints Commission (the IPCC) as soon as is practicable and in any event not later than the end of the following day when it becomes clear that it should be referred, and provide a copy of the complaint to the Monitoring Officer of the Police and Crime Panel within the same timescales.

Direct complaints to IPCC

When a complaint is made to the IPCC, it is the duty of the IPCC to notify the Panel, unless the IPCC considers that there are exceptional circumstances to justify the notification not being given.

Direct complaints to the Panel

Any complaint to any member of the Panel should be immediately directed by the recipient to the Monitoring Officer of the Panel, along with any other available information that is relevant to the complaint. The Monitoring Officer will immediately forward the complaint to the Chief Executive of the PCC for the initial receipt of the complaint as described above, unless it appears to the Monitoring Officer of the Panel that the complaint alleges criminal activity and the Monitoring Officer will direct the complaint immediately to the Independent Police Complaints Commission (the IPCC) as soon as is practicable and in any event not later than the end of the following day when it becomes clear that it should be referred, and provide a copy of the complaint to the Chief Executive of the PCC.

The Chief Executive of the PCC would if there was any substance to it, pass the complaint back to the Panel for recording, and consideration of the complaint. The Panel will consider the Complaint and whether to record it and

how the Recorded Complaint is to be dealt with under the Regulations as described later.

Direct complaints to the PCC and DPCC and preservation of evidence

By not later than the end of the working day following the day on which the Complaint was made to them, the PCC and/ or DPCC must notify the Chief Executive of the PCC, in writing of the matter of the Complaint and provide details of the steps they have taken to preserve such evidence, including its location and in whose custody it is.

Where a Complaint is made directly to the PCC and/ or DPCC then both are under a statutory duty to take all such steps as appear to them to be appropriate for obtaining and preserving evidence in relation to the conduct in question, both initially and from time to time after that. (In discharging this duty they shall take such steps as a reasonable person would consider appropriate in the circumstances to obtain and preserve evidence, and in any event shall comply with any requests of the Panel.

Direct complaints to the police

Where a complaint is made to the Chief Constable, it is his/her duty to give notification of the complaint to the *Chief Executive of the PCC*.

10 The Recorded Complaints and Conduct Matters Database

The Panel will establish a formal register: “the Recorded Complaints and Conduct Matters Register” for the purposes of recording Complaints and Conduct Matters under the Regulations. This Register will take the form of an electronic database within which to record all key details pertaining to a Complaint including the date received, the complainant, a summary of the complaint / the category into which it falls (Conduct Matter, Serious Complaint or other Recorded Complaint), the date on which it was recorded, an indication of intended action on the Complaint and any other information deemed relevant. (A Complaint or Conduct Matter entered into the Register is a “Recorded Complaint” or “Recorded Conduct Matter” for the purposes of this Guidance and the Regulations)..

11 The Panel’s duties to obtain and preserve evidence

When a Complaint comes to the attention of the Panel, it is under a duty to secure that all steps as are appropriate are taken for obtaining and preserving evidence in relation to the conduct in question, both initially and from time to time after that. It is not the Panel’s role to investigate matters and it is likely

that before taking steps to obtain or preserve evidence it will normally consult the IPCC. The IPCC may also give the Panel and Relevant Officeholder directions for obtaining and preserving evidence.

Accordingly the Panel may make formal requests of any of the following persons to take such steps as the Panel considers are expedient or necessary for obtaining and preserving evidence in relation to the conduct in question, both initially and from time to time after that, including requests that steps are taken concerning the disposition of the property and resources of the PCC's office (such as its buildings, assets, equipment, supplies, accounts, records, information, electronic data etc. in their widest sense and wherever located) or other persons:

- The PCC and/ or DPCC;
- Any employee of the PCC's office;
- Any member or employee of a functional body; and
- Any person or organisation having a current or past contractual relationship with the PCC's office or its predecessors or in receipt of a grant from such bodies.

A person given a direction by the Panel under this procedure shall comply with it in full and generally to cooperate with the Panel and its authorised officers in the discharge of their statutory duties under the Regulations.

Such persons shall also permit access and render possession of any such evidence in relation to the conduct complained about to the Panel as is in their possession custody or control in accordance with his/her instructions.

The Panel shall be informed of any instances where there has been a complete or partial failure by any person or organisation to comply with any request regarding evidence.

The Panel has a duty to ensure that it is kept informed of matters relating to the conduct of the relevant office holders which might give rise to a complaint and to provide the IPCC with all such assistance as it reasonably requires.

12 The Panel's duties on notification of a Complaint

The Panel will record a Complaint unless it is satisfied that any of the following exceptions apply, in which case it is not necessary to record the Complaint (in whole or in part):

- if it has been or is currently being dealt with by criminal proceedings: this will normally be the case where the Police have formally charged the person complained about or an information alleging an offence has been laid before a magistrate's court or
- the Complaint has been withdrawn (see section 16)

If not recorded in the Register, the Panel will notify the Complainant of the decision not to record the Complaint and, therefore, to take no action upon it, and will explain the grounds on which that decision was made, whether in relation to whole or part of the Complaint.

If recorded (in whole or part) the Panel will notify the Complainant of that fact and provide information about the next steps to be taken in relation to the Complaint. The Panel will also inform the PCC Chief Executive and, where a Complaint is recorded, provide such details as it thinks appropriate of the Recorded Complaint.

Where the Panel considers that an oral or written Complaint requires further information or detail in order for him to properly consider it under the Regulations, it may ask the Complainant to provide such detail.

The Panel will ensure that the PCC or DPCC as the case may be is advised of the terms of the complaint and shall endeavour to facilitate a satisfactory outcome to the complaint with a view to avoiding, if possible the application of the informal resolution process under the regulations.

If it is not possible to secure a satisfactory outcome for the complainant the matter shall be referred to the Monitoring Officer who shall arrange for informal resolution in accordance with any directions and delegations of the Panel.

13 Taking no action on a Recorded Complaint

If the Panel considers that a Recorded Complaint (which is not one that otherwise must be referred to the IPCC) is one in respect of which no action should be taken, or it falls within the circumstances set out below, then the Panel may handle the Recorded Complaint in whatever manner it thinks fit.

The types of Recorded Complaint that may be dealt with in this way are:

- Where more than twelve months have elapsed since the incident and there is no reason for the delay, or injustice would be caused by it;
- The matter has already been the subject of a complaint;
- The Complaint is anonymous;
- The Complaint is vexatious, habitual, oppressive or otherwise an abuse of the procedures; (see Annex 3 for procedure in handling vexatious, habitual complaints)

The Panel must notify the Complainant that it has decided to handle the Recorded Complaint by taking no further action.

14 Referral of Recorded Complaints and Recorded Conduct Matters to the IPCC

The Panel must refer the following to the IPCC:

- All Recorded Conduct Matters;
- All Serious Complaints (i.e. a complaint that constitutes or involves or appears to constitute or involve, the commission of a criminal offence)
- Any Serious Complaint or Recorded Conduct Matter where the IPCC has called it in (see below).

Call-in by IPCC

The Panel must refer a Recorded Complaint to the IPCC if it is notified that that the IPCC itself requires the complaint to be referred to the IPCC.

Referral

Where a Recorded Complaint or Recorded Conduct Matter is to be referred to the IPCC then the Panel shall do so as soon as is practicable, and in any event not later than the end of the working day following the day on which it becomes clear to the Panel that the Complaint or Conduct Matter one that should be referred to the IPCC. The details in the Register will be made available to the IPCC together with such other information as the Panel considers appropriate.

On referring a Recorded Complaint to the IPCC, the Panel must notify the Complainant and the person complained about of the referral, unless it appears to the Panel that notifying the PCC or DPCC might prejudice a possible future investigation.

Referral-back

Where the IPCC determines that it is not necessary for it to investigate a Recorded Complaint, may refer the Complaint back to the Panel who must deal with the referral in accordance with the Resolution of Complaints (see section 17). The IPCC will notify the Complainant and the PCC or DPCC complained against about this decision.

The IPCC, where it determines that it is not necessary for it to investigate a Recorded Conduct Matter, may refer the matter back to the Panel who may deal with it in any matter that the Panel thinks fit. The IPCC will notify the PCC or DPCC complained against about this decision.

15 Other matters

Civil proceedings against the PCC or DPCC

Civil proceedings brought against the PCC and/ or DPCC that are notified to the Panel, or which the Panel considers are likely to be brought, and which appear to the Panel to involve a Conduct Matter as regards that relevant office holder are potentially recordable as a Conduct Matter by the Panel under the Regulations. A Conduct Matter will not be recorded if the Panel is satisfied that it has already been recorded as a Complaint or has been or is currently being dealt with by criminal proceedings against the person to whose conduct the matter relates.

Civil proceedings (as above) *involve* a conduct matter if they relate to a Conduct Matter or they are proceedings that relate to a matter in relation to which a Conduct Matter, or evidence of a Conduct Matter, is or may be relevant. As mentioned earlier, the Panel will consider all the circumstances but may make such a decision as to whether a Conduct Matter is present on the basis of evidence that is below the normal civil standard of proof.

In order to enable the Panel to discharge its duties under the Regulations, the PCC, DPCC, the Chief Executive of the PCC's office, every counsel, solicitor or legal or other advisor instructed or retained by them are required, as soon as reasonably practicable, to notify the Panel and provide written details of the proceedings in question whenever the PCC and/ or DPCC is the defendant to or an interested party in legal proceedings.

Such persons are expected generally to cooperate with the Panel in the discharge of its statutory duties under the Regulations to such extent as is not inconsistent with any legal professional privilege or obligation of confidence.

16 Withdrawal of complaints

If the Panel receives a notification that the complainant wishes to withdraw their Complaint, signed either by them or their solicitor or other acting on their behalf, then the Regulations shall cease to apply to the Complaint, subject to the following provisions of this procedure.

- If the Recorded Complaint is with the IPCC, the Panel must notify the IPCC that it has recorded the withdrawal of the complaint.
- in the case where the IPCC has referred the Recorded Complaint to the Panel, it must consider whether it is in the public interest for the Complaint to be treated as a conduct matter (notwithstanding the complaint's withdrawal) and shall notify the IPCC accordingly.

In respect of a Recorded Complaint which has not been notified to the IPCC, the Panel must determine whether it is in the public interest for the Complaint to be treated as a Conduct Matter despite the Complainant's withdrawal of it. The Panel shall notify the PCC or DPCC complained about of the recording of

a withdrawal of the Recorded Complaint and whether he/she has decided to treat it as a Recorded Conduct Matter notwithstanding, and shall amend the Register accordingly.

The IPCC, on receiving notification of withdrawal from the Panel of a Recorded Complaint referred to it, shall determine whether it is in the public interest for the Complaint to be treated as a Recorded Conduct Matter and notify the Panel, who shall notify the complainant and amend the Register accordingly.

The Regulations also contain provisions for contacting the Complainant if they indicate they wish to withdraw their Recorded Complaint, but have not signed the withdrawal request.

If the IPCC refers a matter back to the Panel, it shall be dealt with, in the case of a Recorded Complaint in accordance with the guidance on Resolution of Complaints below, and in the case of a Recorded Conduct Matter in such manner as the Panel may determine.

17 Resolution of Complaints

A Recorded Complaint against a PCC and/or a DPCC shall be dealt with by way of informal resolution as set out below

Informal resolution

A Sub-Committee of the Panel, consisting of 3 members of the Panel including where possible either the Chair or Vice Chair of the Panel, be appointed by the Monitoring Officer, to consider the complaint and secure the informal resolution. Such appointment would take place after the Monitoring Officer has consulted the Chair, or in the absence of the post holder, the Vice-Chair, who may request that the matter be referred to the full Police and Crime Panel.

The informal resolution shall not include a formal investigation of the complaint but documents in relation to the complaint and meetings with the person complained against may be requested.

Generally

In attempting to secure resolution of the complaint, the Panel, or sub-committee of it, will consider whether further information / clarification / explanation is required and/or whether any actions are required.

Where it appears to the Panel or sub-committee, that a Recorded Complaint against the PCC and/ or DPCC had in fact already been satisfactorily dealt with at the time it was brought to their notice, the Panel may, subject to any further representations, treat it as having been resolved. The Panel shall, prior to making a final decision that a complaint has already been resolved, give the complainant and the person complained against an opportunity to comment on the proposed decision.

Where the person complained against chooses not to comment on the complaint, the Panel shall record this fact in writing.

Apologies

The Panel may seek informally to resolve a complaint by securing an apology from the PCC or DPCC to the Complainant, either directly or indirectly. The Panel shall not, however, tender on behalf of the person complained against an apology for his / her conduct unless the person complained against has agreed to issue the apology.

Final steps where informal resolution

Where a Recorded Complaint has been subjected to informal resolution, the Panel shall as soon as practicable make a record of the outcome of the procedure and send a copy of that record to the complainant and the person complained against.

The Panel shall not publish any part of any such record unless it:

- has given the complainant and the person complained against the opportunity to make representations in relation to the proposed publication; and
- has considered any such representations, and is of the opinion that publication is in the public interest.

In cases where the Panel upholds a Recorded Complaint, it has no legal powers to apply formal sanctions other than to provide an opinion on the conduct of the office-holder concerned.

It shall endeavor to do this within 5 working days of the resolution of the Panel, or sub-committee.

18 Record Keeping and Provision of Information

The Panel shall keep records of: every complaint and purported complaint made or received by the Panel; every conduct matter recorded by the Panel arising from civil proceedings or otherwise coming to the attention of the Panel and every exercise of a power or performance of a duty under the Regulations.

The Panel shall receive a report, on a regular basis, the summary details (such as can be reported in public), on the exercise of any and all of these functions to the Panel for monitoring purposes.

The Panel shall provide to the IPCC all such information or documents specified and all evidence or other things so specified or described by the IPCC in a notification given by the IPCC to the Panel and in a manner and within a time so specified.

19 Local Government Ombudsman

Where all other procedures have been exhausted and the complainant is still not happy about the way their complaint has been handled, they can refer the matter to The Local Government Ombudsman, who will carry out an investigation on their behalf. **Contact details**

The Ombudsman can only do this if the complaint has been through the above process.



DURHAM POLICE AND CRIME PANEL

COMPLAINT FORM- Alleging a Conduct Matter about The Durham Police and Crime Commissioner, and/ or Deputy Police and Crime Commissioner

Your details

1. Please provide us with your name and contact details

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

2. Your address and contact details will not usually be released unless necessary or to deal with your complaint.

However, we will tell the following people that you have made this complaint:

- the office holder you are complaining about

- any other person whom we consider it necessary to inform to properly investigate your complaint.
- The IPCC

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details, of your complaint being released, please complete section 6 of this form.

Making your complaint

3. Your complaint will initially be considered, usually within 7 working days, by the Chief Executive of the Police Crime Commissioner's Office, who if there appears to be any substance in your complaint will forward the matter to the Police and Crime Panel. Where your complaint alleges potential criminal conduct of the Police and Crime Commissioner and Deputy Police and Crime Commissioner, your complaint will be referred to the Independent Police Complaints Commission

You will be kept informed as your complaint goes through each stage of the complaints procedure.

4. Please indicate which office holder your complaint relates to:-

Police and Crime Commissioner	
Deputy Police and Crime Commissioner	

5. Please explain in this section (or on separate sheets) what the officer holder has done for you to allege this complaint.

It is important that you provide all the information you wish to have taken into account when it decides if any action can be taken.

- You should be specific, wherever possible; about exactly what you are alleging the office holder said or did. For instance, instead of writing that you were insulted, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should explain whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.

- You should provide any relevant background information.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

Only complete this next section if you are requesting that your identity or details of your complaint is kept confidential

6. In the interests of fairness and natural justice, office holders who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint and then further details of it if there is a decision to investigate it or take other action on it.

We will not withhold your identity, or a summary or the details of your complaint, unless you have exceptional reasons why we should do so.

If you think you have such reasons and want us to consider withholding your identity and/or any details of your complaint, either altogether or for some period of time, you must cross out the statement in the box below giving your consent to such disclosure. You must also attach to this form a separate sheet which fully explains what information you want withheld and your reasons for your request to withhold it.

I understand and agree that my name and details of this complaint will be disclosed to the persons mentioned in paragraph 1 above.
--

If you do request confidentiality and this is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we may still proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Additional Help

7. Complaints must be submitted in writing. This includes fax and email submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible. You should initially contact the Chief Executive of the PCC's Office (whose contact details are given below) who will try to arrange appropriate assistance for you.

.....
Signed

.....
Dated

This form once completed should be sent, along with any supporting documents, to:

**Lesley Davies,
Chief Executive,
Police and Crime Commissioner's Office,
County Hall,
Durham
DH1 5UL**

Email: enquiries@durham-pcc.gov.uk

Fax: 0191 3834206

ANNEX 2

HABITUAL OR VEXATIOUS COMPLAINTS CONCERNING POLICE AND CRIME COMMISSIONER AND DEPUTY POLICE AND CRIME COMMISSIONER

1. Introduction

- 1.1 This policy identifies situations where complainants, either individually or as part of a group, or a group of complainants, might be considered to be “habitual or vexatious” and ways of responding to these situations.
- 1.2 In this policy the term habitual means “done repeatedly or as a habit”. The term vexatious is recognised in the dictionary of law and means “an action brought for the purpose of annoying the opponent and with no reasonable prospect of success”. This policy is intended to assist in identifying and managing persons who seek to be disruptive through pursuing an unreasonable course of conduct.
- 1.3 Habitual or vexatious complaints can be a problem for officers and members. The difficulty in handling such complaints is that they are time consuming and wasteful of resources in terms of officer and member time and displace scarce human resources that could otherwise be spent on council priorities. Whilst the Monitoring Officer to the Police and Crime Panel endeavours to process all complaints under procedure there are times when there is nothing further which can reasonably be done to assist or to rectify a real or perceived problem.

2. Habitual or Vexatious Complainants

- 2.1 For the purpose of this policy, the following definition of habitual or vexatious complainants will be used:

The repeated and/or obsessive pursuit of:

- (i) unreasonable complaints and/or unrealistic outcomes;

and/or

- (ii) reasonable complaints in an unreasonable manner.

- 2.2 Prior to considering its implementation, the Monitoring Officer will send a summary of this policy to the complainant to give them prior notification of its possible implementation.
- 2.3 Where complaints continue and have been identified as habitual or vexatious in accordance with the criteria set out in Schedule A the Monitoring Officer will consult with the Chairman or Vice-Chairman of

the Police and Crime Panel to seek agreement to treat the complaint as habitual or vexatious and for an appropriate course of action to be taken. Schedule B details the options available for dealing with habitual or vexatious complaints.

- 2.4 The Monitoring Officer will notify complainants, in writing of the reasons why their complaint has been treated as habitual or vexatious and the action that will be taken. The Monitoring Officer will also notify the Police and Crime Commissioner, and Deputy Police And Crime Commissioner, as appropriate, that complainant has been designated as a habitual and vexatious complainant to the Police and Crime Panel.
- 2.5 Once a complainant has been determined to be habitual or vexatious, their status will be kept under review after one year and monitored by the Monitoring Officer with reports being taken to Police and Crime Panle as required. If a complainant subsequently demonstrates a more reasonable approach then their status will be reviewed.

Schedule A - Criteria for determining habitual or vexatious complainants

Complainants (and/or anyone acting on their behalf) may be deemed to be habitual or vexatious where previous or current contact with them shows that they meet **one** of the following criteria:

Where complainants:

- 1) persist in pursuing a complaint where the procedure for handling complaints has been fully and properly implemented and exhausted.
- 2) persistently change the substance of a complaint or frequently raise new issues or seek to prolong contact by frequently raising further concerns or questions whilst the complaint is being addressed. (Care must be taken however not to disregard new issues which are significantly different from the original complaint as they need to be addressed as a separate complaint.)
- 3) are repeatedly unwilling to accept documented evidence given as being factual or deny receipt of an adequate response in spite of correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify after a long period of time has elapsed.
- 4) repeatedly do not clearly identify the precise issues which they wish to complain about despite reasonable efforts to help them specify their concerns and/or where the concerns identified do not fall within the remit of the Police and Crime Panel.

- 5) regularly focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. It is recognised that determining what a trivial matter is can be subjective and careful judgement will be used in applying this criteria.
- 6) has threatened or used physical violence towards employees at any time. This will itself cause personal contact with the complainant and/or their representative to be discontinued and the complaint will, therefore, only be continued to be written communication. The Council must determine that any complainant who threatens or uses actual physical violence towards employees will be regarded as a vexatious complainant. The complainant will be informed of this in writing together with notification of how future contact with the Council is to be made.
- 7) have in the course of addressing a complaint to the Monitoring Officer had an excessive number of contacts with the Police and Crime Panel, placing unreasonable demands on officers. A contact may be made in person by telephone, letter, email or fax. Judgment will be used to determine excessive contact taking into account a specific circumstance of each individual case.
- 8) have harassed or been verbally abusive on more than one occasion towards officers dealing with complaints. Officers recognise that complainants may sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this. Some complainants may have a mental health disability and there is a need to be sensitive in circumstances of that kind.
- 9) are known to have recorded meetings or face to face/telephone conversations without prior knowledge and consent by the parties involved.
- 10) make unreasonable demands on the Council and its employees and fail to accept these may be unreasonable, for example insist on an action being taken by Police and Crime Panel which falls outside of its remit.
- 11) make unreasonable complaints which impose a significant burden on the human resources of the Police and Crime Panel and where the complaint:
 - clearly does not have any serious purpose or value; or
 - is designed to cause disruption or annoyance; or
 - has the effect of harassing the Police and Crime Panel; or
 - can otherwise fairly be characterised as obsessive or manifestly unreasonable

- 12) make repetitive complaints and allegations which ignore the replies which the Police and Crime Panel has supplied in previous correspondence

Schedule B - Options for dealing with habitual or vexatious complainants

The options below can be used singularly or in combination depending on the circumstances of the case and whether the complaint is ongoing or completed.

- 1) A letter to the complainant setting out responsibilities for the parties involved if the Monitoring Officer is going to assess the complaint. If terms are contravened, consideration will then be given to implementing other action as indicated below.
- 2) Decline any contact with the complainant, either in person, by telephone, by fax, by letter, by email or any combination of these provided that one form of contact is maintained. This may also mean that only one named officer will be nominated to maintain contact and the complainant is notified of this person.
- 3) Notify the complainant in writing, that the Police and Crime Panel has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant will also be notified that the correspondence is at an end, advising the complainant that they are being treated as a habitual or vexatious complainant and as such the Police and Crime Panel does not intend to engage in further correspondence dealing with the complaint.

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Durham Police and Crime Panel

30th November 2012

Supporting Guidance from the Local Government Association

Report of Lorraine O'Donnell, Assistant Chief Executive, Durham County Council

Purpose of the Report

- 1 To inform members of the Panel on supporting information and guidance from the Local Government Association (LGA) on Police and Crime Panel and related issues.

Detail

- 2 Throughout the past year the LGA has provided assistance to host authorities in establishing the Police and Crime Panels (PCP) within England and are now looking ahead to how they can assist panels in their first six months in operation.
- 3 To date the LGA together with the Centre for Public Scrutiny has published guides covering the scrutiny role of panels and how confirmation hearings might be conducted. In addition, they are planning to publish a guide to the handling of complaints, which will complement publications on the same topic by the Home Office and the Independent Police Complaints Commission.
- 4 To support these written materials, the LGA have also established an on-line support network for Members on Police and Crime Panels and the officers supporting them. The purpose of the support network is to share experiences, emerging good practice and discuss problems they face.
5. All Members of the Police and Crime Panel are encouraged to join this support network by accessing the following link:
<https://knowledgehub.local.gov.uk/web/policeandcrimepanelsupportandwidernetworkinggroup>
- 6 Publications relating to the PCP are available from their website, together videos and training materials. Appendix 2 to this report provides Members with narrative and a link to access each of the LGA's publications.

Recommendation

- 1) That Members of the Police and Crime Panel note information contained within this report.

Contact: Feisal Jassat, Overview and Scrutiny Manager
Tel: 0191 383 3506

Appendix 1: Implications

Finance

None

Staffing

None

Risk

None

Equality and Diversity / Public Sector Equality Duty

None

Accommodation

None

Crime and Disorder

None

Human Rights

None

Consultation

None

Procurement

None

Disability Issues

None

Legal Implications

None

Reference Documents - Local Government Association

Document Name	Commentary	Link to Document
APACE guidance on police and crime plans	Publication by the Association of Police Authority Chief Executives (APACE) providing guidance on developing a police and crime plan.	https://knowledgehub.local.gov.uk/c/document_library/get_file?uuid=5f8d9d3d-5f66-4ed4-9270-9e4ea52cc892&groupId=5490010
Police and Crime Commissioners – Equality, Diversity and Human Rights	The APA/APCC have produced a guide for PCCs on equality, diversity and human rights responsibilities. Although this document is really aimed at PCCs, it will also be of interest to panels who will need to be aware of guidance on PCC responsibilities.	https://knowledgehub.local.gov.uk/c/document_library/get_file?uuid=eb324fb6-be0e-4565-8467-4578259e42b2&groupId=5490010
Police and Crime Panels - A Guide to Scrutiny	<p>Joint guidance from the Centre for Public Scrutiny and the LGA on how panels might carry out their scrutiny role.</p> <p>The guidance looks at some of the other bodies involved and linkages with overview and scrutiny committees that oversee community safety partnerships. The guide includes suggestions on programming the work of the panel, different methodologies and some of the practical issues to consider when planning formal meetings and attendance of the PCC, and the Chief Constable. The guidance also considers the key supporting role of task and finish groups.</p>	https://knowledgehub.local.gov.uk/c/document_library/get_file?uuid=64531798-b015-42dc-be5d-d4d721d9c8ba&groupId=5490010
Police and Crime Panels - guidance on confirmation hearings	Joint guidance from the Centre for Public Scrutiny and the LGA on how panels about conducting confirmation hearings for PCC's chief constables, deputy PCCs, chief executives and chief finance officer appointments	https://knowledgehub.local.gov.uk/c/document_library/get_file?uuid=ff552e0a-a872-4f2a-99df-964e799453d7&groupId=5490010
Home Office Policing Order and Protocol clarifying roles	The Order issues the Secretary of State's Policing Protocol which is required under section 79 of the Police Reform and Social Responsibility Act 2011. It is designed to set out the ways in which relevant parties should exercise functions (or refrain from exercising) so as to encourage, maintain or improve working relationships and limit or prevent overlap and duplication.	https://knowledgehub.local.gov.uk/c/document_library/get_file?uuid=4cc02c37-ae33-4d56-80d1-1803c90b42a2&groupId=5490010



Police and Crime Panel

30 November 2012

Letter from The Minister of State for Policing and Criminal Justice

Report of Colette Longbottom, Head of Legal and Democratic Services

Purpose of the Report

- 1 To advise the Panel of receipt of a letter from the Rt Hon Damian Green, MP, Minister of State for Policing and Criminal Justice.
- 2 The attached letter dated 21 November 2012 provides detail on the role of Police and Crime Panels as set out in legislation.
- 3 The letter has been copied to Chief Constables across England and Wales (outside London).

Recommendation

- 4 The Panel is asked to note the contents of the letter.

Contact: Colette Longbottom Tel: 03000 269732

Appendix 1: Implications

Finance – None specific within this report.

Staffing - None specific within this report.

Risk - None specific within this report.

Equality and Diversity / Public Sector Equality Duty - None specific within this report.

Accommodation - None specific within this report.

Crime and Disorder - None specific within this report.

Human Rights - None specific within this report.

Consultation - None specific within this report.

Procurement - None specific within this report.

Disability Issues - None specific within this report.

Legal Implications – None specific within this report.



Home Office

Rt Hon Damian Green MP
MINISTER OF STATE FOR POLICING AND CRIMINAL JUSTICE
2 Marsham Street, London SW1P 4DF
www.homeoffice.gov.uk

Police and Crime Panel
Host Authorities

Dear Colleagues

21 NOV 2012

Police and Crime Panels

I would like to take the opportunity to thank you for the hard work and considerable effort that you have invested in establishing police and crime panels (PCPs). I am pleased that every police force area has a PCP, ready to take on their vital role in the new police governance arrangements.

PCPs are a crucial element of the reform package and will provide a strong check and balance to the work of police and crime commissioners (PCCs). Their role and powers are clearly set out in the Police Reform and Social Responsibility Act 2011 and the Policing Protocol Order 2011.

Section 28 of the Act sets out the functions of PCPs outside London. Under section 28(5) the general role of a PCP is to review or scrutinise the decisions and actions of the PCC. It is important to note that PCPs do not replace police authorities. They do not have a role in scrutinising the performance of the force – this is the role of the PCC under section 1(7).

While the PCP's functions of scrutiny or review will necessarily require them to challenge the PCC at times, section 28(2) explicitly states that the functions of a PCP must be exercised with a view to supporting the effective exercise of the functions of the PCC.

PCPs will want to focus their attention on the key strategic actions and decisions taken by the PCC. As outlined in Section 28(3), (4) and (6), PCPs have powers to make reports and recommendations about any actions and decisions taken by the PCC and have a specific role in scrutinising the draft Police and Crime Plan and the Annual Report.

Section 29 gives PCPs the power to require the PCCs and their staff to attend meetings, and under Section 28 (4) they have a specific responsibility to question the PCC in public in relation to the Annual Report.

Section 29(6) allows a PCP to request the Chief Officer of Police to attend a meeting which the PCC has been required to attend. I want to stress; however, that the Act does not include provision for the PCP to compel the attendance of the Chief Officer of Police.

Earlier this year, the Home Secretary wrote to you providing a statement on the role, responsibilities and powers of PCPs. Effective, strategic scrutiny will rely on strong working relationships between the PCP, the PCC and other local partners. We expect PCPs to work constructively with PCCs, acting as a critical friend; providing both challenge and support, as outlined in the Act.

I look forward to the important contribution that PCPs will make to this directly accountable model of policing.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Damian Green', written in a cursive style.

Rt Hon Damian Green MP