



Durham Police and Crime Panel

23 June 2022

Review of Procedure for dealing with Complaints and Conduct matters against the Police and Crime Commissioner

Report of Helen Lynch, Head of Legal and Democratic Services

Purpose of the Report

1. To present to the Panel proposed revisions to the Procedure for dealing with Complaints and Conduct matters against the Police and Crime Commissioner.

Executive summary

2. The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 set out the functions of the Police and Crime Panel in relation to the handling of complaints concerning the conduct of Police and Crime Commissioner and Deputy Police Commissioner
3. The Panel is required to adopt a procedure, which is consistent with the Regulations for dealing with complaints against the PCC. The Panel last reviewed and made changes to the "Procedure for dealing with complaints and conduct matters about the Durham Police Crime and Victims Commissioner and/or Deputy Police Crime and Victims Commissioner at its meeting in October 2020.
4. On 6 May 2022, the Clerk to the Panel held a workshop for members of the Panel to provide an overview of the Complaints Procedure and underpinning legislation. During the workshop, a number of suggestions were made as to amendments, which would make the Procedure easier for potential complainants to understand and follow.
5. This report sets out those proposed amendments for the Panel to consider and formally adopt.

Recommendation

6. The Police and Crime Panel are recommended to:
 - (a) Comment on the amended draft Procedure; and
 - (b) Approve the amended Procedure to be implemented and applied to any complaint received after 23 June 2022.
 - (c) Delegate authority to the Clerk of the Panel, in consultation with the Chair and Vice-Chair of the Panel to make minor amendments to the Procedure and to ensure that it is in an accessible format.

Background

7. The Police Reform and Social Responsibility Act 2011 (“the Act”) sets out the role and responsibilities of the Police and Crime Panel, which includes the handling of complaints relating to the Police and Crime Commissioner (PCC) and Deputy Police and Crime Commissioners (DPCC).
8. In accordance with the Act and the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 (“the Regulations”), the Panel first adopted Procedures for dealing with complaints and conduct matters about the PCC (then referred to locally as the Police Crime and Victims Commissioner) in November 2012. The Procedure adopted at that time was based on the model procedures adopted by many Police and Crime Panels.
9. The Police and Crime Panel reviewed and amended the Procedure to ensure that it reflected the Local Government association guidance for Police and Crime Panels, which includes guidance on complaints handling. The changes approved were relatively minor and included the updating of relevant roles/postholders and sought to simplify the language used and also to make the document accessible.
10. On 6 May 2022, the Panel attended a workshop on the complaints process, which was delivered by the Clerk to the Panel. The session provided an overview of the legislative basis for the procedure, the different types of complaint, the role of the Panel as well as the practicalities of what happens when a complaint is received.
11. Under the legislation, responsibility for dealing with complaints against the PCC/DPCC is within the remit of the Panel. However, the complaints operate within a very narrow statutory framework.
12. Where a complaint is received, which indicates that the PCC/DPCC may have committed a criminal offence (Conduct Matter) or constitutes or appears to constitute a criminal offence (Serious Complaint), the Panel must refer the matter to the Independent Office of Police Conduct (IOPC).
13. Where a complaint is received, which is not a conduct matter or a serious complaint matter, it falls to the Panel to consider by way of informal resolution. The Panel has no powers to investigate complaints but can request the PCC/DPCC to provide information or attend the Panel to answer questions. The Panel also has no powers to impose sanctions.
14. The informal resolution process is not a disciplinary process but is intended to facilitate the resolution of complaints to the satisfaction of the parties involved. The intention is that the Procedure can be flexible to adapt to the particular circumstances of the complaint.

Proposed changes to the Procedure

15. Under the Regulations, the Panel may delegate responsibility for the initial handling of complaints to the Chief Executive and Monitoring Officer for the PCC's office.
16. The Panel has delegated this responsibility to the PCC's Chief Executive. However, where they consider that there may be a conflict, the Procedure provides that they can refer the matter to the Clerk to the Panel to determine whether it is a matter for the Panel or the IOPC to determine.
17. The Panel discussed this at the workshop and considered whether this was appropriate. Whilst there might be no actual conflict with the Chief Executive handling complaints, there could be a perception of conflict given that the Chief Executive reports to the PCC.
18. The Panel are aware that this issue was considered by the Government when Police and Crime Panels were established. At that point it was considered that no conflict arose. The Chief Executive is already responsible for assessing the lawfulness and propriety of the PCCs actions in their capacity as monitoring officer, which they are able to conduct effectively and impartially.
19. Notwithstanding this, the Panel considered it would promote transparency and accountability if the potential for the perception of conflict was addressed. It was noted that it is not practical for the Panel to convene on receipt of a complaint to determine whether or not it requires a referral to the IOPC or to be dealt with by informal resolution.
20. It was therefore suggested that the responsibility for the initial handling of complaints be delegated from the Panel to the Clerk of the Panel in accordance with section 101(2) of the Local Government Act 1972, which allows a committee to arrange for its functions to be discharged by an Officer.
21. The Panel also considered that the Procedure is quite difficult to follow in places. It was acknowledged that this is because that the Procedure largely mirrors the Regulations, which are also difficult to digest. There was a concern that this might prevent members of the public from being able to raise their concerns. The Clerk was therefore requested to review the Procedure to see if it could be streamlined, simplified and re-ordered to make it easier for the public to follow.
22. Appendix 2 to the report is a copy of the existing procedure, which shows the proposed amendments as tracked changes. The changes appear

significant but other than the amendment reflected at paragraph 20, the other changes seek to simplify the procedure and re-order it to deal with each stage of the complaints process in turn. The terminology has been reviewed to ensure that it is as simple as possible and key terms are defined within the document to aid understanding. A clean copy of the revised document is attached at Appendix 3 to the report.

Considerations for the Panel

23. In considering the proposed revisions to the Procedure, the Panel may wish to consider the LGA guidance, which recommends that Panels consider the following:

- Responsibility for all types of complaint is clearly set out;
- Whether a triage system would be useful;
- Making sure that complainants understand that recording a complaint is not the same as upholding it;
- Considering whether it is appropriate for the Chair of the Panel to see all complaints;
- Having clear guidance for recording complaints;
- Developing clear communication to explain what is happening to members of the public;
- Rather than referring to the IOPC general casework team; referrals should be to a specialist link with experience of PCC complaints;
- Having a process to take back and conclude complaints when received back from the IOPC.

Background papers

- LGA Guidance – Good Practice for Police and Crime Panels [good-practice-police-and--50a.pdf \(local.gov.uk\)](#)

Other useful documents

- None

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Appendix 1: Implications

Legal Implications

The report references the responsibilities under the Police Reform and Social Responsibility Act 2011 and the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 for the Panel in respect of complaints. The proposed revisions to the Procedure are in accordance with the legislative requirements.

Finance

None

Consultation

The proposed changes were developed following a workshop with the Police and Crime Panel.

Equality and Diversity / Public Sector Equality Duty

It is hoped that by simplifying and streamlining the procedure, it will be more accessible to the public.

Climate Change

None.

Human Rights

None.

Crime and Disorder

This is a key focus of the role of the Police and Crime Commissioner and Police and Crime Panel.

Staffing

If the proposals are approved by the Panel, the Clerk rather than the PCC's Chief Executive would be responsible for the initial handling of complaints. In practice, this is unlikely to have a significant impact as the Clerk is routinely consulted in respect of all complaints received.

Accommodation

None.

Risk

None.

Procurement

None.

Appendix 2: XXXX
