



DURHAM POLICE AND CRIME PANEL

PROCEDURE FOR DEALING WITH COMPLAINTS
RELATING TO THE DURHAM POLICE AND, CRIME ~~AND~~
~~VICTIMS'~~ COMMISSIONER AND DEPUTY POLICE AND,
CRIME ~~AND VICTIMS'~~ COMMISSIONER (IF APPOINTED)

1 Overview

- 1.1 ~~This procedure deals with~~ ~~This procedure deals with~~ complaints about the conduct of the Durham Police, Crime ~~and Victims'~~ Commissioner (PCVC) or Deputy Police, Crime ~~and Victims'~~ Commissioner (DPCVC) (where appointed) (collectively referred to as the Commissioner) in accordance with the requirements of which is required by the Police Reform and Social Responsibility Act 2011 ("the Act") and the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 ("the Regulations").
- 1.2 ~~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~~ Where this Procedure is inconsistent with the Act or Regulations, the Act or Regulations will take precedence.
- 1.3 There are separate procedures for complaints against the Commissioner's office and staff, complaints regarding operational policing, the Chief Constable and other police officers.

2 Role and Jurisdiction of the Panel in relation to Complaints

~~2.1 The Regulations require the Durham Police and Crime Panel ("the Panel") to handle and consider complaints against the Commissioner.~~

~~2.2.1~~ The Durham Police and Crime Panel ("the Panel") is responsible for overseeing the handling of complaints regarding non-criminal behaviour of the Commissioner, wherever that complaint arises from. Criminal complaints about the Commissioner are dealt with by the Independent Office for Police Conduct (IOPC).

~~2.3.2~~ The Panel cannot impose sanctions but may choose to use their powers to require the Commissioner to attend a hearing to answer questions, request information and documents from the Commissioner and publish a report or recommendation.

3 Definitions and Concepts

~~3.1 The complaints which can be presented to the Panel can be categorised as follows:~~

Complaint -

~~A general complaint about the conduct of the PCC/DPC~~ This is a complaint that the Panel is required under the Regulations to record on the Recorded Complaints and Conduct Matters Register database.

Conduct Matter - where there is

~~This is where there is~~ an indication that the Commissioner may have committed a criminal offence. This could be, for example, through legal proceedings or media reporting. Conduct Matters can arise without a complaint being made, and must be notified to the IOPC

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Recorded Complaints and Conduct Matters Register – an electronic database which records all key details pertaining to complaints against the Commissioner, including the date received, the complainant, a summary of the complaint, the type of complaint (e.g. conduct matter, serious complaint, general complaint) and intended action.

Serious Complaint -

~~This is~~ a complaint about the conduct of the Commissioner which constitutes or appears to constitute or involve the commission of a criminal offence. ~~The IOPC must be notified of Serious Complaints.~~

4 Initial Handling of Complaints

~~3.2~~ The Panel has delegated responsibility for the initial handling of complaints to the Clerk and Monitoring Officer to the Panel (“the Clerk”), to the Monitoring Officer to the Office of the Police and Victims Crime Commissioner (the Monitoring Officer) for the initial receipt of complaints and referral to the Panel.

4.1

4.2 Where possible, Complainants are asked to use the complaint form shown at Annex 1, and provide as much detail as possible. Complaints should be submitted to:

The ~~Monitoring Officer~~Clerk to the Police and Crime Panel
~~Office of the Durham Police, Crime and Victims’~~
~~Commissioner~~Durham County Council
County Hall~~Police Headquarters~~

Aykley Heads _

Durham

DH1 5UL~~TF~~

or by email ~~General.Enquiries~~PCC@durham-
pcc.gov.uk~~helen.lynch@durham.gov.uk~~

4.3 Where a complaint is submitted to the Office of the Police and Crime Commissioner or Members of the Panel, they should be referred immediately to the Clerk for review.

4.4 Where a complaint is submitted directly to the IOPC, the IOPC will notify the Panel unless the IOPC considers that there are exceptional circumstances to justify the notification not being given.

On receipt of a complaint

4.5 On receipt of a complaint, the Clerk will review the complaint and take one of the following actions:

- (i) If the complaint relates to an issue about local crime/ Neighbourhood concerns or other operational policing matters rather than the conduct of the Commissioner, it will be referred to Durham Constabulary in accordance with their relevant procedures.
- (ii) Conduct matters or Serious complaints will be referred directly to the IOPC 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 to the Commissioner within the same timescales.
- (iii) General complaints regarding the conduct of the Commissioner or complaints, which have been considered by the IOPC and

referred back to the Panel, will be referred to the Panel for consideration by way of Informal Resolution.

(iv) The Clerk, in consultation with the Chair and Vice Chair of the Panel can decide not to refer the complaint for resolution or take no action at all in the following circumstances:

- A complaint by a member of the Commissioner's staff, arising from their work. Such complaints will be referred to the Office for the Police Commissioner to be dealt with in accordance with the relevant employment procedures.
- A complaint that is more than 12 months old where there is no good reason for the delay or the delay would be likely to cause injustice.
- A complaint about conduct that is already the subject of another complaint.
- An anonymous complaint.
- A complaint which is vexatious, oppressive, trivial or otherwise an abuse of process for dealing with complaints (detailed in Annex 2).
- A repetitious complaint.

4.5—On receipt of a complaint, the Clerk will review the complaint and take one of the following actions:

i) If the complaint relates to an issue about local crime/Neighbourhood concerns or other operational policing matters rather than the conduct of the Commissioner, it will be referred to Durham Constabulary in accordance with their relevant procedures.

ii) Conduct matters or Serious complaints will be referred directly to the Monitoring Officer. If there is a complaint that alleges criminal conduct, the Monitoring Officer will refer the matter directly to the IOPC 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 to the Panel who is also the Clerk to the Panel (the Clerk) Commissioner within the same timescales.

iii) General complaints regarding the conduct of the Commissioner will be referred to the Panel for consideration by way of Informal Resolution.

3.3—Where complaints are presented directly to the Panel these should be immediately directed to the Clerk along with any other available information that is relevant to the complaint. The Clerk will then immediately forward the complaint to the Monitoring Officer for initial handling, unless it appears to the Clerk that the complaint alleges criminal activity. In such an instance the Clerk will direct the complaint immediately to the IOPC 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.

~~3.4 If the complaint is made directly to the Commissioner, the Commissioner must notify the Monitoring Officer in writing of the matter of the complaint and provide details of the steps they have taken to preserve evidence. This must be done by no later than the end of the working day following the day on which the complaint was made and must include its location and whose custody it is in.~~

~~3.5 Where a complaint is made to the IOPC, it is the duty of the IOPC to notify the Panel, unless the IOPC considers that there are exceptional circumstances to justify the notification not being given.~~

~~iv) The Clerk in consultation with the Chair and Vice Chair of the Panel can decide not to refer the complaint for resolution or take no action at all in the following circumstances:~~

~~A complaint by a member of the Commissioner's staff, arising from their work. Such complaints will be referred to the Office for the Police Commissioner to be dealt with in accordance with the relevant employment procedures.~~

~~A complaint that is more than 12 months old where there is no good reason for the delay or the delay would be likely to cause injustice.~~

~~4.6 To promote transparency and ensure effective scrutiny, the Clerk will present a report at each regular meeting on complaints which have been subject to initial handling but not referred to the Panel and the reasons for this.~~

Recording of Complaints

~~4.7 The Clerk will record all complaints on the Recorded Complaints and Conduct Matters Register ("the Register") unless the complaint has already been recorded, it is or has been the subject of criminal proceedings or the complaint is withdrawn.~~

~~A complaint about conduct that is already the subject of another complaint.~~

~~An anonymous complaint.~~

~~A complaint which is vexatious, oppressive, trivial or otherwise an abuse of process for dealing with complaints (detailed in Annex 2).~~

~~A repetitious complaint.~~

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Acknowledgement of Complaints

4.8 The Clerk will acknowledge receipt of the complaint, confirm that it has been recorded on the Register and whether the complaint has been referred to the IOPC or whether it will be referred to the Panel. Where possible, complaints should be acknowledged within five working days.

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Duty to obtain & preserve evidence

Duty to obtain & preserve evidence

4.9 When a complaint comes to the attention of the Panel, it is under a duty to secure that all appropriate steps are taken to obtain and preserve evidence in relation to the conduct in question, both initially and from time to time after that.

4.10 The Clerk, in consultation with the Chair and Vice-Chair of the Panel, will liaise with the IOPC in relation to the obtaining and preservation of evidence.

4.11 The Panel may make formal requests or take such steps as considered expedient or necessary for obtaining and preserving evidence in relation to the conduct in question. This may include requests concerning the disposition of property and resources in the PCC's office (such as buildings, assets, equipment, supplies, accounts, records, information, electronic data etc.) or to the Commissioner, an employee of the Commissioner or any person or organization having a current or past contractual relationship with the PCCs office, its predecessors or in receipt of grant from such bodies.

4.12 Any person given a direction by the Panel under this Procedure shall comply with it in full and generally co-operate with the Panel and its authorised Officers in the discharge of their statutory duties under the Regulations.

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

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5. –Complaints to be dealt with by the Panel – Informal Resolution

~~5.1 The Clerk will provide details of the complaint to the Commissioner and invite them to respond to the complaint. The Commissioner will usually be given two weeks in which to provide their response.~~

~~5.2 The Clerk will prepare a report for the Panel (or if considered appropriate a sub-Committee of the Panel), setting out the pertinent details of the complaint and the Commissioner's response to the complaint. The report will also detail the relevant legislation, regulations and guidance with recommendations on the next steps.~~

~~5.1 The Clerk will write to the person complained about, setting out timescales and providing details about the informal resolution procedure and giving them two weeks to make comments in response to the complaint provide details of the complaint to the Commissioner and invite them to respond to the complaint. The Commissioner will usually be given two weeks in which to provide their response.~~

~~5.2.~~

~~The Clerk will compileprepare a brief report for the Panel (or if considered appropriate a sub-Committee of the Panel), setting out the pertinent details of the complaint and the Commissioner's, responses to the complaint and comments on matters of fact on the draft report. The report will also detail the relevant legislation, regulations and guidance with recommendations on the next steps.~~

~~5.3 The Clerk will share a copy of the draft report with the Complainant and the Commissioner and offer the opportunity to comment on matters of fact within the draft report. They will also be asked to make representations as to whether the outcome of the complaint should be published. The Complainant and Commissioner will usually be given at~~

least seven days to provide their comments/representations.

5.4 The Clerk will finalise the report, including any comments/representations received by the Complainant and/or Commissioner, to be presented at a meeting of the Panel ~~Upon meeting, the Panel (or a Sub-Committee of it where applicable).~~

5.5 ~~The Panel will first consider whether the complaint has been satisfactorily dealt with and, subject to any representations by the complainant, may decide to treat the complaint as having been resolved. In such a case, the Panel's reasons will be recorded and notified to the parties.~~

5.6 If the Panel believes that the matter has not yet been satisfactorily dealt with, it will determine the most suitable course of action to assist informal resolution, taking into account any applicable guidance issued by the Secretary of State and any applicable guidance issued by the IOPC. Any such action plan will include an indicative timeframe.

5.7 In determining the most suitable course of action, the Panel may request that the Commissioner provides information or attends before the Panel to answer questions.

5.8 The Panel shall have regard to:

- The Code of Conduct of the Commissioner;
- Whether the complaint discloses a specific conduct failure identifiable with the Code of Conduct of the Commissioner;
- Whether the complaint related to operational policing matters which the Commissioner has no authority over; and
- The remedies available to it.

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Whether the complaint related to operational policing matters which the Commissioner has no authority over; and
The remedies available to it.~~

5.9 Informal resolution may not involve an investigation and it is not a disciplinary process. The intention is for the procedure to be flexible so it can be adapted to individual circumstances. The aim is to resolve a complaint to the satisfaction of the parties involved. For example, the Commissioner may agree that an apology would be appropriate, an explanation might resolve the concern, or an agreement on how to move forward may be reached following mediation.

5.10

5.10—In considering the complaint, the Panel will meet in private. The Panel can take any steps that it considers appropriate to resolve the complaint provided that those steps do not amount to a sanction. Such

steps may include (but are not limited to): If the Panel believes that the matter has not yet been satisfactorily dealt with, it will determine the most suitable course of action to assist informal resolution, taking into account any applicable guidance issued by the Secretary of State and any applicable guidance issued by the IOPC. Any such action plan will include an indicative timeframe. Any action plan may include the following:

- Asking ~~Requesting~~ the Clerk to the Panel to write an explanatory letter to the complainant on behalf of the Panel;
- Requesting that an officer of the PCVC's Office write an explanatory letter to the complainant;
- Suggesting a change to the Office of the PCVC policy;
- Requesting that ~~the Commissioner apologises in respect of the conduct complained of~~ an apology be tendered by the person complained about (no apology may be tendered on behalf of the person complained against ~~Commissioner unless that person has~~ they have admitted the alleged conduct and agreed to the apology).

5.11 In accordance with Regulations, the Panel will not conduct an investigation. The Panel may exercise its delegated powers to require the person complained against to provide information or documents or attend before it to answer questions or give evidence, as this will not be regarded as an investigation. However, any other step intended to gather information about the complaint, other than inviting the comments of the complainant and the person complained against, will not be permitted.

~~5.11~~ The Panel will consider whether the outcome of the complaint shall be published. The Panel shall not publish any part of any such record unless the Panel;

- (i) has given the complainant and Commissioner the opportunity to make representations in relation to the proposed publication; and
- (ii) having considered any such representations, is of the opinion that publication is in the public interest.

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~~ii) having considered any such representations, is of the opinion that publication is in the public interest.~~

5.12 If, at any stage, the IOPC informs the Panel that it requires the complaint to be referred to it, or if the ~~Clerk in consultation with the Chair and Vice-Chair of the~~ Panel decides that the matter has a criminal element and therefore needs to be referred to the IOPC, the informal resolution process will be discontinued.

The Clerk will make a record of any informal resolution and will, usually within five working days, provide copies to the complainant and the person complained about.

~~— The Panel shall not publish any part of any such record unless the Panel: — has given the complainant and the person complained against the opportunity to make representations in relation to the proposed publication; and — having considered any such representations, is of the opinion that publication is in the public interest.~~

~~— In considering complaints against the Commissioner, the Panel will meet in private and will report to each quarterly scheduled meeting of the Panel summarising any complaints that have been considered since the last meeting, including the outcome.~~

Notification of the outcome of complaints

5.13 A record of the outcome (decision notice) must be made as soon as practicable after the process is completed. Copies must be provided to the complainant and the person complained against. The Clerk will usually aim to do this within seven days of the Panel meeting.

5.14

~~5.14 If applicable, the Clerk will arrange for the outcome of the complaint to be published. The Panel may decide to publish the decision notice if it is considered to be in the public interest and having provided the complainants and the Commissioner the opportunity to make representations on whether or not it should be published~~

6. Withdrawn Complaints

6.1 A complainant can withdraw or discontinue their complaint at any time by notifying the Panel in writing (addressed to the Clerk) and signing the notification. The Clerk will record the complaint as having been withdrawn on the Register.

6.2 Where a complaint has been referred to the IOPC, the Clerk will notify the IOPC of the complainant's notification of withdrawal/discontinuance.

6.3 The Panel may decide not to treat the complaint as withdrawn, but to treat it as a Conduct Matter and refer it to the IOPC in accordance with the procedure referred to above. This decision will be made by the Clerk in consultation with the Chair and Vice-Chair of the Panel.

6.4 The Clerk will notify the Commissioner that the complainant has withdrawn or discontinued their complaint and if it is a matter that the Panel intends to refer to the IOPC as a Conduct Matter or Serious Complaint.

5 Conduct occurring outside England and Wales

5.1 The Commissioner has a 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.

5.2 If the Panel receives such a notification from the Commissioner then they shall handle it in whatever manner (if any) that the Panel thinks fit.

5.3 Accordingly, by no 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 Commissioner shall notify the Panel via the Clerk in writing of the matter.

7 Record Keeping and Provision of Information

7.1 The Register and records relating to complaints against the Commissioner will be retained for 12 months after the Commissioner leaves office.

7.2 On receipt of a notification from the IOPC for documents or information from the Panel, the Clerk shall provide all such information, documents and evidence as requested to the IOPC.

8 Appeals

8.1 There is no right of appeal to informal resolution.

8.2 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 and Social Care Ombudsman.

Contact details can be found at <http://www.lgo.org.uk/making-a-complaint/> or by telephone contacting 0300 061 0614

Duty to preserve evidence

~~3.6 Where a complaint is made, the first task is to ensure that all appropriate steps are taken to obtain and preserve evidence relating to the complaint. This duty is ongoing until or unless arrangements are made for the complaint to be dealt with through informal resolution. This is the exception because informal resolution does not involve investigation of the complaint i.e. obtaining evidence about it.~~

~~4 Notification and recording of complaints~~

~~4.1 Where a complaint is considered by the Monitoring Officer to have substance to it, they will refer the complaint back to the Panel for recording and consideration. This will be done by presenting the complaint to the Clerk to the Panel within five working days.~~

~~4.2 If the Monitoring Officer considers that either there is an actual, or there could be a perceived, conflict of interest in respect of them taking any of the decisions they shall refer the matter to the Clerk for the Panel for consideration. Such referral will be made no later than two working days after identifying the actual or perceived conflict of interest.~~

~~4.3 If the complaint relates to another police force area, the Panel for that area must be notified by the Clerk to the Panel.~~

~~4.4 If the complaint relates to the force area for the Panel it will be recorded on the database unless section 5.8 and 6 of this procedure apply.~~

~~4.5 If the complaint is recorded, the complainant and the person complained against will be provided with a copy of the record of complaint. In certain circumstances the record may be anonymised to protect the identity of the complainant or any other person. In some cases the Clerk may decide not to provide a copy of the record, if doing so might prejudice any criminal investigation or pending proceedings or would, in some other way, not be in the public interest.~~

~~4.6 Any decision not to provide the record will be kept under regular review.~~

~~4.7 The duty to provide a copy of the record does not apply where the complaint has been, or is already being, dealt with by criminal proceedings, or where the complaint is withdrawn.~~

~~4.8 The Clerk in conjunction with the Chair and Vice Chair may also take the decision not to record the complaint and take no further~~

action if the complaint falls within one or more of the categories which are detailed at section 6 below.

5 — Circumstances when the Panel does not need to deal with a complaint

~~5.11.1 The Clerk in consultation with the Chair and Vice Chair of the Panel can decide not to refer the complaint for resolution or take no action at all in the following circumstances:~~

- ~~● A complaint by a member of the Commissioner's staff, arising from their work.~~
- ~~● A complaint that is more than 12 months old where there is no good reason for the delay or the delay would be likely to cause injustice.~~
- ~~● A complaint about conduct that is already the subject of another complaint.~~
- ~~● An anonymous complaint.~~
- ~~● A complaint which is vexatious, oppressive, trivial or otherwise an abuse of process for dealing with complaints (detailed in Annex 2).~~
- ~~● A repetitious complaint.~~

~~The complainant will be notified if the decision is taken not to deal with a complaint.~~

~~5.21.1 To promote transparency and ensure effective scrutiny, the Panel will receive a report of the Clerk at each regular meeting on complaints which have been subject to initial handling and have not been referred to the Panel.~~

6 — The Panel's duties on notification of a Complaint

~~6.1 Where a complaint does not need to be referred to the IOPC or has been referred back to the Panel by the IOPC, the Monitoring Officer will:~~

- ~~i. provide the complainant and the person complained about the contact details of the Clerk.~~
- ~~ii. refer the complaint and copies of all the associated paperwork, to the Clerk within two working days of consideration of the complaint.~~

~~6.2 On receipt of the complaint, the Clerk to the Panel will:~~

- ~~i. assess the complaint to ensure that it clearly identifies the alleged conduct matter.~~
- ~~ii. refer unclear complaints back to the Monitoring Officer seeking further information.~~
- ~~iii. consider whether the complaint has been satisfactorily dealt with and if so, consult with the complainant to treat the complaint as withdrawn.~~
- ~~iv. in appropriate cases, consider in consultation with the Chair of the Panel whether the complaint is suitable for the disapplication of the~~

~~Regulations (section 6). Where a complaint may be suitable for disapplication of the Regulations, the Clerk will consult with the Complainant and the Commissioner before determining whether a disapplication is appropriate. Where disapplication applies the complaint will be recorded as complete.~~

~~vi. Where a complaint is one which is not referred to the IOPG and is to be considered under informal resolution, to the complainant, setting out timescales and providing details about the informal resolution procedure, and giving the complainant two weeks to make further comments in support of their complaint. Where the Clerk believes that the circumstances of the case are such that the Panel may decide to treat the complaint as having been resolved, they will ask the complainant to provide their representations in this regard for the Panel to take into account; and~~

~~vii.i. write to the person complained about, setting out timescales and providing details about the informal resolution procedure and giving them two weeks to make comments in response to the complaint.~~

~~6.31.1 The Clerk will compile a brief report for the Panel (or if considered appropriate a sub-Committee of the Panel), setting out the pertinent details of the complaint, responses to the complaint and comments on matters of fact on the draft report. The report will also detail the relevant legislation, regulations and guidance with recommendations on the next steps.~~

~~6.41.1 Upon meeting, the Panel (or a Sub-Committee of it where applicable) will first consider whether the complaint has been satisfactorily dealt with and, subject to any representations by the complainant, may decide to treat the complaint as having been resolved. In such a case, the Panel's reasons will be recorded and notified to the parties.~~

~~6.51.1 The Panel shall have regard to:~~

- ~~• The Code of Conduct of the Commissioner;~~
- ~~• Whether the complaint discloses a specific conduct failure identifiable within the Code of Conduct of the Commissioner;~~
- ~~• Whether the complaint related to operational policing matters which the Commissioner has no authority over; and~~
- ~~• The remedies available to it.~~

~~6.61.1 If the Panel believes that the matter has not yet been satisfactorily dealt with, it will determine the most suitable course of action to assist informal resolution, taking into account any applicable guidance issued by the Secretary of State and any applicable guidance issued by the IOPG. Any such action plan will include an indicative timeframe. Any action plan may include the following:~~

- ~~• Asking the Clerk to the Panel to write an explanatory letter to the complainant on behalf of the Panel;~~
- ~~• Requesting that an officer of the PCVC's Office write an explanatory letter to the complainant;~~
- ~~• Suggesting a change to the Office of the PCVC policy;~~
- ~~• Requesting that an apology be tendered by the person complained about (no apology may be tendered on behalf of the person complained against unless that person has admitted the alleged conduct and agreed to the apology).~~

~~6.71.1 In accordance with Regulations, the Panel will not conduct an investigation. The Panel may exercise its delegated powers to require the person complained against to provide information or documents or attend before it to answer questions or give evidence, as this will not be regarded as an investigation. However, any other step intended to gather information about the complaint, other than inviting the comments of the complainant and the person complained against, will not be permitted.~~

~~6.81.1 If, at any stage, the IOPC informs the Panel that it requires the complaint to be referred to it, or if the Panel decides that the matter has a criminal element and therefore needs to be referred to the IOPC, the informal resolution process will be discontinued.~~

~~6.91.1 The Clerk will make a record of any informal resolution and will, usually within five working days, provide copies to the complainant and the person complained about.~~

~~6.101.1 The Panel shall not publish any part of any such record unless the Panel:~~

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

~~6.111.1 In considering complaints against the Commissioner, the Panel will meet in private and will report to each quarterly scheduled meeting of the Panel summarising any complaints that have been considered since the last meeting, including the outcome.~~

7 Resolution of Complaints

~~7.1 If a complaint is not referred to the IOPC or rejected it must be dealt with by informal resolution. This is a way of dealing with a complaint by solving, explaining, clearing up or settling the matter directly with the complainant without an investigation or formal proceedings. It is a flexible process that may be adapted to the needs of the complainant and the individual complaint.~~

~~7.2 If a complaint has already been satisfactorily dealt with by the time it comes to the Panel's attention, the complaint may be considered resolved and no further action taken. The Clerk can take this decision following consultation with the Chair and Vice-Chair of the Panel.~~

~~7.3 Matters requiring informal resolution will be considered by the Panel or by a Sub-Committee where section 7.2(v) applies. The Panel or a Sub-Committee of it may take such steps as appropriate to resolve the matter.~~

~~7.4 Informal resolution will be discontinued if the IOPC notifies the Panel that they require the complaint to be referred to them, or if the Clerk in consultation with the Chair and Vice-Chair of the Panel decides the complaint should be referred to the IOPC.~~

8 — Requirements for informal resolution

8.1 The intention is for the procedure to be flexible so it can be adapted to individual circumstances. However, there are some formal requirements:

- No investigation can take place. The Panel has the power to require the person complained against to provide information and documents and to attend to answer questions. This does not amount to an investigation.
- The complainant and the person complained against must be given the opportunity to comment on the complaint as soon as is practicable.
- Any failure by the person complained against to comment on the complaint when invited to do so will be noted in the written record.
- No apology can be tendered on behalf of the person complained against unless the person has admitted the alleged conduct and agreed to the apology.

9 — The outcome of informal resolution

9.1 There are no formal sanctions arising from informal resolution however, the Panel may publish a report or recommendation.

9.2 The aim is to resolve a complaint to the satisfaction of the parties involved. For example, the person complained against may agree that an apology would be appropriate, an explanation might resolve the concern, or an agreement on how to move forward may be reached following mediation.

Publishing the outcome of informal resolution

~~9.31.1 A record of the outcome (decision notice) must be made as soon as practicable after the process is completed. Copies must be provided to the complainant and the person complained against.~~

~~9.41.1 The Panel may decide to publish the decision notice if it is considered to be in the public interest and having provided the complainants and the Commissioner the opportunity to make representations on whether or not it should be published~~

10 — B Conduct Matters and Serious Complaints

10.1 The Panel has delegated authority to the Clerk for filtering complaints and deciding which complaints may amount to a Conduct Matter or Serious Complaint and should be referred to the IOPC. For a Conduct Matter or Serious Complaint the Clerk will determine the referral to the IOPC in consultation with the Chair and Vice-Chair to the Panel. The Clerk may take advice from the IOPC before making a referral.

10.2 The referral must be made to the IOPC as soon as possible and no later than the close of business the day after the Panel becomes aware that the matter should be referred.

10.3 In addition to Conduct Matters and Serious Complaints, complaints which are required by the IOPC to be referred must be referred.

Conduct Matters

- ~~10.4 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 Commissioner may have committed a criminal offence in England or Wales or, although committed elsewhere, it is an offence triable in England or Wales.~~
- ~~10.5 A complaint does not need to have been made for a Conduct Matter to arise and to be dealt with under the Regulations.~~
- ~~10.6 Conduct Matter must be recorded by the Panel and entered into the Recorded Complaints and Conduct Matters Database (detailed at section 11)~~

Serious Complaints

- ~~10.7 The Panel is not responsible for investigating or determining whether a crime has been committed.~~
- ~~10.8 A ‘serious complaint’ means a qualifying complaint made about conduct which constitutes or involves, or appears to constitute or involve, the commission of a criminal offence.~~
- ~~10.9 The Complainant, and the person complained about, should be notified unless doing so might prejudice a future investigation. It is possible for the IOPC to refer any complaint back to the Panel for resolution.~~
- ~~10.10 In order to enable the Panel to discharge its duties under the Regulations, the PCVC, DPCVC, the Monitoring Officer of the PCVC’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 PCVC and/ or DPCVC is the defendant to or an interested party in legal proceedings.~~
- ~~10.11 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.~~

11—Withdrawn complaints

- ~~11.1 A complainant can withdraw or discontinue their complaint at any time by notifying the Panel in writing (addressed to the Clerk) and signing the notification. This must be recorded, and if the complaint has been referred to the IOPC they shall be updated.~~
- ~~11.2 The Panel may decide not to treat the complaint as withdrawn, but to treat it as a Conduct Matter and refer it to the IOPC in accordance with the procedure set out in section 7. This decision will be made by the Clerk in consultation with the Chair and Vice Chair of the Panel.~~

~~11.3 In respect of a Recorded Complaint the Panel must determine whether it is the public interest for the complaint to be treated as a Conduct Matter despite the complainant's withdrawal of it.~~

~~11.4 The Panel shall notify the Commissioner of the recording of a withdrawal of the Recorded Complaint and whether they have decided to treat it as a Recorded Conduct Matter. The Register will be amended accordingly.~~

~~11.5 The person who is the subject of the complaint will be kept informed, unless to do so might prejudice a criminal investigation or pending proceedings, or would in some way not be in the public interest.~~

~~121 Conduct occurring outside England and Wales~~

~~12.11.1 The Commissioner has a 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.~~

~~12.21.1 If the Panel receives such a notification from the Commissioner then they shall handle it in whatever manner (if any) that the Panel thinks fit.~~

~~12.31.1 Accordingly, by no 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 Commissioner shall notify the Panel via the Clerk in writing of the matter.~~

~~13 The Recorded Complaints and Conduct Matters Database~~

~~13.1 The Panel will establish a formal register known as "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 as set out within the Act or Regulations. The database will be maintained by the Clerk to the Panel.~~

~~146 Record Keeping and Provision of Information~~

~~14.16.1 The Panel shall retain the record for 12 months after the Commissioner leaves office, which includes every recorded complaint and purported complaint made or received by the Panel.~~

~~14.26.2 The Panel shall provide to the IOPC all such information or documents specified and all evidence or other things so specified or described by the IOPC in a notification given by the IOPC to the Panel and in a manner and within a time so specified.~~

157 Appeals

15.17.1 There is no right of appeal to informal resolution.

15.27.2 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 can be found at <http://www.lgo.org.uk/making-a-complaint/> or by telephone contacting 0300 061 0614



DURHAM POLICE AND CRIME PANEL

COMPLAINT FORM

Complaint about the Durham Police ~~and~~, Crime ~~and Victims'~~ Commissioner or Deputy Police ~~and~~, Crime ~~and Victims'~~ Commissioner (where appointed).

Your details

1. Please provide us with your name and contact details

Full Name (including title):

Address:

Preferred contact number:

Alternative contact number:

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 IOPC

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 5 of this form.

Making your complaint

3. Your complaint will initially be considered, usually within seven working days, by the ~~Monitoring Officer of the Police, Crime and Victims' Commissioner's (PCVC) Office, who if there appears to be the Clerk and Monitoring Officer to the Police and Crime Panel. any substance in your complaint will forward the matter to the Police and Crime Panel via the Clerk.~~

Where your complaint alleges potential criminal conduct of the [PCVC-PCC](#) or the Deputy [PCVCPCC](#), your complaint will be referred to the IOPC.

[Where your complaint relates to the general conduct of the PCC or Deputy PCC, the Clerk will prepare a report for the Police and Crime Panel in accordance with the complaints procedure.](#)

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

4. Please explain in this section (or on separate sheets) whether the complaint relates to the [PCVC-PCC](#) or the Deputy [PCVC-PCC](#) (where appointed) and details of your 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 including details 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.

Request to withhold identity

5. 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 indicate at the submission of complaint (section 7). You must also attach to this form a separate sheet which fully explains what information you want withheld and your reasons for your request.

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

6. Complaints must be submitted in writing which includes email submissions. Should you require assistance with accessing this form, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing or provide the form in an alternative language if required.

If you need any support in completing this form, please let us know as soon as possible. You should initially contact the [Monitoring Officer of the PCVC's Office Clerk and Monitoring Officer to the Panel](#) (whose contact details are given below) who will try to arrange appropriate assistance for you.

Submission of complaint

7. **(Delete as appropriate)**

By signing below I consent to my complaint being considered and presented to those parties identified in paragraph 2 of this form.

OR

By signing below I consent to my complaint being considered but I object to my details being provided to those listed in paragraph ~~5-2~~ of this form. I have provided full reasons as [to why I wish my identity to be withheld as required by paragraph 5 of this form](#), ~~and~~ I understand that [my request to remain confidential will until my reasons have been considered by them my identity will be kept confidential until such time my request has been considered by the Monitoring Officer or Clerk and Monitoring to the Panel and the option to understand that I will have the opportunity to withdraw my complaint if the decision is to disclose my details it is decided that my identity will be disclosed.](#)

Signed
Dated

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

[The Clerk and Monitoring Officer to the Police and Crime Panel](#)
[Office of the Police, Crime and Victims' Commissioner](#)
[Durham Police Headquarters, Durham](#)
[DH1 5TT](#)[Durham County Council](#)
[County Hall](#)
[Durham](#)
[DH1 5UL](#)

Email: General.EnquiriesPCC@durham-pcc.gov.uk
helen.lynch@durham.gov.uk

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 endeavour 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:

- a. unreasonable complaints and/or unrealistic outcomes; and/or
- b. 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 PCVC, and Deputy

PCVC, 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 Panel 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:
 - i. clearly does not have any serious purpose or value; or
 - ii. is designed to cause disruption or annoyance; or
 - iii. has the effect of harassing the Police and Crime Panel; or
 - iv. 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.