



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.
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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.