



## Surrey Police and Crime Panel

### Complaints Protocol

#### 1 Background

- 1.1 The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 make Surrey's Police and Crime Panel (hereby referred to as "PCP") responsible for overseeing complaints made about the conduct of the Police and Crime Commissioner (PCC) and the Deputy Police and Crime Commissioner (DPCC), where appointed.
- 1.2 The PCP also has a responsibility to informally resolve noncriminal complaints about the conduct of the PCC and DPCC, as well as criminal complaints or conduct matters that are referred back to it by the Independent Police Complaints Commission (IPCC). Issues raised about local crime or neighbourhood concerns rather than about the conduct of the PCC or DPCC will be dealt with by the police force through normal channels of feedback rather than under the Regulations.
- 1.3 This document sets out how the PCP will manage the complaints process.

#### 2 Initial Complaint Handling

- 2.1 In accordance with Regulation 7, the PCP has agreed to delegate initial receipt of complaints to the Chief Executive of the PCC's Office (hereby referred to as "Chief Executive").
- 2.2 Where a complaint is sent directly to the PCP, the PCP's Support Officer will refer the matter to the Chief Executive for initial consideration within 5 working days.
- 2.3 Upon receipt of a complaint, the Chief Executive will record the complaint, except in cases where he/she is satisfied that the subject-matter of the complaint is being/has been dealt with by means of criminal proceedings against the PCC/DPCC, or the complaint has subsequently been withdrawn in accordance with the Regulations.
- 2.3.1 Where the Chief Executive decides not to take action to notify the appropriate panel or record all or any part of the complaint, he/she will notify the complainant of this decision and the grounds on which it was made.
- 2.4 Once recorded, the Chief Executive will determine whether the PCP is the appropriate body to deal with the complaint. If it is not, the Chief Executive will notify the appropriate body. If it is, he/she will refer the matter in the manner outlined in Section 3.
- 2.4.1 The Chief Executive will refer non-criminal Complaints that are 'out-of-scope' of the PCP on to the most appropriate body.
- 2.5 Where the Chief Executive becomes aware of a Conduct Matter, except where the matter has been recorded as a Complaint or is being/has been dealt with by means of

criminal proceedings, he/she will determine whether the PCP is the appropriate body to deal with it. If it is not, the Chief Executive will notify the appropriate body. If it is, he/she will record the Conduct Matter.

2.6 In the event that it becomes clear to the Chief Executive that a complaint or Conduct Matter involves any degree of criminality, he/she will refer (in such manner as the IPCC specifies) a Serious Complaint or Conduct Matter to the IPCC. This referral will occur no later than the end of the day when it first became clear that the matter constitutes a Serious Complaint or Conduct Matter.

2.6.1 Where the IPCC notifies the Chief Executive that it requires a Complaint or Conduct Matter to be referred to it, the Chief Executive will comply as soon as possible and in any event no later than the end of the day after such notification was made.

2.6.2 The Chief Executive of the PCC will notify the complainant (where applicable), and the person to whose conduct the matter relates (unless a decision has been taken that it might prejudice a possible future investigation) of the referral.

2.6.3 Where the IPCC refers a criminal or conduct complaint back to the PCP, the Chief Executive will refer the matter in the manner outlined in Section 3.

### **3 Disapplication of the Regulations**

3.1 Having decided that a complaint does not need to be referred to the IPCC or having referred a complaint to the IPCC and had it referred back, the PCP Complaints Sub-Committee may decide that a complaint should not be subjected to resolution in accordance with Part 4 of the regulations or that no action should be taken in relation to it at all. The Complaints Sub-Committee must notify the complainant and the person being complained about if they decide to handle the complaint in this manner. The Complaints Sub-Committee may only do this if the complaint falls into any one of the following specified categories:

3.1.1 A complaint by a member of the relevant office holder's staff, arising from the staff member's work;

3.1.2 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;

3.1.3 A complaint about conduct that is already the subject of another complaint;

3.1.4 An anonymous complaint that discloses neither the name nor address of the complainant;

3.1.5 A complaint which is vexatious, oppressive or otherwise an abuse of process for dealing with complaints;

3.1.6 A complaint that is repetitious.

3.2 If the Chief Executive of the PCC 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 detailed in Section 2, he/she shall refer the matter to the PCP's Complaints Sub-

Committee for it to take the decision. Such referral will be made no later than **2 working days** after identifying the actual or perceived conflict of interest.

#### **4 Referral of Complaint to the PCP**

- 4.1 When the decision has been made to record a complaint that does not need to be referred to the IPCC, or a Serious Complaint or Conduct Matter that has been referred back by the IPCC, and falls under the responsibility of the PCP, the Chief Executive will:
- 4.1.1 Send a record of the complaint to the complainant and to the person complained about. In the latter case, the Chief Executive may decide to provide the complaint in a form which protects the identity of the complainant. The Chief Executive will also provide the complainant and the person complained about the contact details of the Panel's Support Officer;
  - 4.1.2 Refer the record, and copies of all the associated paperwork, to the Panel's Support Officer within **5 working days** of the complaint being recorded.
- 4.2 On receipt of the complaint, the Panel's Support Officer will:
- 4.2.1 Assess the complaint to ensure that it clearly identifies the alleged conduct matter.
  - 4.2.2 Refer unclear complaints back to the Chief Executive of the Office of the PCC seeking further information.
  - 4.2.3 Consider whether the complaint has been satisfactorily dealt with and if so, consult with the complainant to treat the complaint as withdrawn.
  - 4.2.4 In appropriate cases, consider in consultation with the Chair of the Panel the suitability of the complaint for disapplication of part 4 of the regulations (see section 3).
  - 4.2.5 In the event that a matter is considered suitable for a disapplication of Part 4 of the Regulations, to consult the complainant and the PCC, before determining whether a disapplication is appropriate, whereupon the complaint will be recorded as complete.
  - 4.2.6 Share details of the complaint with the membership of the Complaints Sub-Committee. The Sub-Committee is a working group made of six members of the Police and Crime Panel. Three members of the Sub-Committee must be present to consider a complaint.
  - 4.2.7 Convene a meeting of the Complaints Sub-Committee, normally to be held within **4 weeks** of the referral of the complaint.
  - 4.2.8 Write to the complainant, setting out timescales and providing details about the informal resolution procedure, and giving the complainant **2 weeks** to make further comments in support of his/her complaint. Where the Panel's Support Officer believes that the circumstances of the case are such that the Complaints Sub-Committee may decide to treat the complaint as having been

resolved, he/she will ask the complainant to provide his/her representations in this regard for the Complaints Sub-Committee to take into account; and

- 4.2.9 Write to the person complained about, setting out timescales and providing details about the informal resolution procedure; and giving him/her **2 weeks** to make comments in response to the complaint.

## 5 Considering the Complaint

- 5.1 The Panel's Support Officer will compile a brief report for the Complaints Sub-Committee, setting out the pertinent details of the complaint, recording any failure by the person complained about to comment on the complaint and making suggestions for the next steps.
- 5.2 Upon meeting, the Complaints Sub-Committee 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 Complaints Sub-Committee's reasons will be recorded and notified to the parties.
- 5.3 The complaints Sub-Committee shall have regard to:
- 5.3.1 The Code of Conduct of the Police and Crime Commissioner;
- 5.3.2 Whether the complaint discloses a specific conduct failure identifiable within the Code of Conduct of the Police and Crime Commissioner;
- 5.3.3 Whether the complaint related to operational policing matters which the Police and Crime Commissioner has no authority over;
- 5.3.4 The remedies available to it.
- 5.4 If the Complaints Sub-Committee believes that the matter has not yet been satisfactorily dealt with, it will determine the most suitable course of action to assist informal resolution. The Panel will take into account any applicable guidance issued by the Secretary of State and may also consider any guidance issued by the IPCC pursuant to section 22 of the Police Reform Act 2002 on local resolution. Any such action plan will include an indicative timeframe. Any action plan may include the following:
- 5.4.1 Asking the Panel's Support Officer to write an explanatory letter to the complainant on behalf of the Complaints Sub-Committee;
- 5.4.2 Requesting that an officer of the PCC's Office write an explanatory letter to the complainant;
- 5.4.3 Suggesting a change to the Office of the PCC policy;
- 5.4.4 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).

- 5.5 In accordance with Regulations, the Complaints Sub-Committee will not conduct an investigation<sup>1</sup>. The Complaints Sub-Committee 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.
- 5.6 If, at any stage, the IPCC informs the PCP that it requires the complaint to be referred to it, or if the Complaints Sub-Committee decides that the matter has a criminal element and therefore needs to be referred to the IPCC, the informal resolution process will be discontinued.
- 5.7 The Panel's Support Officer will make a record of any informal resolution and will, usually within **5 working days**, provide copies to the complainant and the person complained about.
- 5.8 The PCP shall not publish any part of any such record unless the Panel:
- 5.8.1 has given the complainant and the person complained against the opportunity to make representations in relation to the proposed publication; and
  - 5.8.2 having considered any such representations, is of the opinion that publication is in the public interest.
- 5.9 As a working group of the PCP, the Complaints Sub-Committee will meet in private and will report to each quarterly scheduled meeting of the PCP summarising any complaints that have been considered since the last meeting, including the outcome.
- 5.10 If agreed by the full membership of the Sub-Committee, the informal resolution of a complaint can be considered through 'electronic' means, including email and teleconferencing, depending upon the evidence provided and complexity of the complaint.

## **6 Complaints about the PCP**

- 6.1 A complainant who is not satisfied with the outcomes of the Complaints Sub-Committee may make a complaint to the LGO (Local Government Ombudsman) who will consider the case- <http://www.lgo.org.uk/make-a-complaint>.
- 6.2 Any complaints about the Surrey Police and Crime Panel or a Panel Member will need to be directed to the Monitoring Officer of the host authority.

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<sup>1</sup> The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012

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