

## **Arrangements for Handling Complaints**

### Delegated Authority to the Chief Executive of the PCC

1. The Panel delegates the following powers and duties to the Chief Executive to act on the Panel's behalf:
  - 1.1 to provide assistance, information and access to premises to the IPCC/its appointed investigator in relation to any investigation of a Serious Complaint or Conduct Matter by the IPCC;
  - 1.2 upon receiving a Complaint, except where the Chief Executive 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being/has been dealt with by means of criminal proceedings against the PCC/DPCC or the Complaint has subsequently been withdrawn in accordance with the Regulations, to determine whether the Panel is the appropriate police and crime panel to deal with it and (1) if not, to notify the appropriate panel or (2) if it is, to record the Complaint and notify the Panel that the Complaint has been recorded. Where the Chief Executive decides not to take action to notify the appropriate panel or record the whole or any part of the Complaint, the Chief Executive must notify the complainant and the Panel of this decision and the grounds on which it was made;
  - 1.3 where the Chief Executive becomes aware of a Conduct Matter (whether civil proceedings have been brought, are likely to be brought or otherwise), except where the matter has been recorded as a Complaint or is being/has been dealt with by means of criminal proceedings, to determine whether the Panel is the appropriate police and crime panel to deal with it and (1) if not, to notify the appropriate panel or (2) if it is, to record the Conduct Matter;
  - 1.4 as soon as possible (and in any event no later than the end of the day after the day when it first became clear that the matter constitutes a Serious Complaint or Conduct Matter), to refer (in such manner as the IPCC specifies) a Serious Complaint or Conduct Matter to the IPCC in consultation with the Chairman or Vice Chairman of the Panel. Where the IPCC notifies the Panel that it requires a Complaint or matter to be referred to it, the Chief Executive must comply as soon as possible and in any event no later than the end of the day after the day such notification was made. The Chief Executive must 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;

- 1.5 In the case of 1.2, 1.3 or 1.4 above, if the Chief Executive considers that either there is an actual, or there could be a perceived, conflict of interest in respect to taking the decision required, to refer the matter to the Monitoring Officer of the Host Authority for he/she to take the decision, such referral to be made no later than 2 working days after identifying the actual or perceived conflict of interest;
- 1.6 where the Chief Executive receives from a complainant (or via the IPCC) written notification signed by the complainant (or his solicitor/authorised agent) that he withdraws the Complaint or that he does not wish any further steps to be taken in consequence of the Complaint, to record this and notify the IPCC (after which the Regulations cease to apply to the Complaint). This duty similarly applies in relation to Complaints that have been referred by the Chief Executive to the IPCC who is still handling the Complaint. Where the complainant fails to provide written notification signed accordingly, the Chief Executive must take the steps set out in Regulation 16(8). The Chief Executive must also notify the person complained about (unless a decision has been taken that it might prejudice a possible future investigation);
- 1.7 to comply with the various duties set out in Part 5 of the Regulations regarding the provision of copies of the Complaint to the parties involved (subject to any decision made otherwise than by the Chief Executive not to supply a copy of the complaint to the PCC/DPCC or to provide a copy in a form which keeps anonymous the identity of the complainant or of any other person in accordance with Regulation 31(2) – (3)) and record keeping;
- 1.8 to provide an update report to each quarterly scheduled meeting of the Panel about all Complaints and other matters concerning the conduct of the PCC/DPCC covered by the Regulations, anything which is done under, or for the purposes of, any provision of the Regulations and any obligations to act, or refrain from acting, that have arisen under the Regulations, but have not yet been complied with or have been contravened; and

- 1.9 where a complaint is received and recorded and where action is required to be taken that falls within the delegated powers and duties of the Monitoring Officer of the Host Authority (or other authorised individual), to refer the matter no later than 2 working days after the complaint has been recorded to the Monitoring Officer of the Host Authority and the Panel's Support Officer).

#### Delegated Authority to the Host Authority's Monitoring Officer

2. The Panel delegates authority to the Host Authority's Monitoring Officer the following powers and duties to act on the Panel's behalf:
  - 2.1 where a Complaint or Conduct Matter comes to the Monitoring Officer's attention, to secure that all appropriate steps are taken, both initially and from time to time after that, for obtaining and preserving evidence relating to the conduct in question and to comply with any directions given to the Panel by the IPCC in this regard. Such steps may include requesting other relevant parties to obtain or preserve evidence and issuing any appropriate directions to the PCC/DPCC to take specified steps for obtaining or preserving evidence;
  - 2.2 where the Chief Executive considers that either there is an actual, or there could be a perceived, conflict of interest in respect of him/her taking the decision whether to record a Complaint or Conduct Matter, or in respect of him/her identifying a Serious Complaint for subsequent referral to the IPCC, and refers the matter to the Monitoring Officer for decision, to take that decision in accordance with the Regulations;
  - 2.3 to provide assistance, information and access to premises to the IPCC/its appointed investigator in relation to any investigation of a Serious Complaint or Conduct Matter by the IPCC;
  - 2.4 to consider whether not to supply a copy of the complaint to the PCC/DPCC (on the grounds that, to do so, might prejudice any criminal investigation or pending proceedings or would otherwise be contrary to the public interest) or to provide a copy in a form which keeps anonymous the identity of the complainant or of any other person in accordance with Regulation 31(2) – (3). Where a decision is

made not to supply a copy of the complaint, to keep that decision under regular review;

- 2.5 where a complainant gives written notification (direct to the Panel or via the IPCC) that he/she withdraws the Complaint or that he/she does not wish any further steps to be taken in consequence of the Complaint, and the IPCC is not handling the Complaint (including situations where the IPCC has referred a Serious Complaint back to the Panel to deal with), the determination whether the complaint is one made about conduct which constitutes or involves, or appears to constitute or involve, the commission of a criminal offence and should therefore be treated as a Conduct Matter, in which case it shall be recorded and handled as such by the Monitoring Officer (i.e. the duty to refer the matter to the IPCC must be complied with, unless the IPCC takes the view that the Conduct Matter has, for the purposes of the Regulations, been referred back to the Panel);
- 2.6 the power to decide to disapply Part 4 (informal resolution of complaints) i.e. where a complaint falls within the specified description of complaints (see paragraphs 3.16 and 3.17 of the Regulations), a decision can be made to handle a matter otherwise than in accordance with Part 4 or should take no action in relation to it. Where a decision is made to handle a matter otherwise than in accordance with Part 4, to take the necessary steps to handle the matter accordingly. Where the Monitoring Officer considers it appropriate to do so, it may authorise the Chief Executive to take any action on behalf of the Panel in relation to the matter; and
- 2.7 to provide an update report to each quarterly scheduled meeting of the Panel about all actions taken under the Regulations (including any obligations to act, or refrain from acting, that have arisen under the regulations, but have not yet been complied with or have been contravened) by the Monitoring Officer.

Delegated Authority to the Host Authority's Monitoring Officer to conduct the informal resolution process

3. The Panel continues to delegate authority to the Host Authority's Monitoring Officer to undertake the informal resolution process who shall have the following powers and duties to act on the Panel's behalf:

- 3.1 where a Complaint has been recorded (including a Serious Complaint that has been referred to the IPCC and then referred back to the Panel), to handle the matter in accordance with Part 4 of the Regulations (unless Part 4 has been disapplied and handled separately or in respect of which no further action is to be taken) and the Protocol attached at **Appendix 2**. Where it appears that the matter has already been satisfactorily dealt with at the time it was brought to its notice, subject to any representations by the Complainant, the Monitoring Officer may treat the matter as having been resolved;
- 3.2 the powers to require the person complained against to provide information or documents or attend a meeting to answer questions or give evidence (under sections 13(1) and 29(1) of the Police Reform and Social Responsibility Act 2011 respectively);
- 3.3 the power to determine whether, having given the parties an opportunity to make representations about the proposed publication of the record of the outcome of the informal resolution procedure and having considered any such representations, publication is in the public interest and the power to publish accordingly;
- 3.4 the power to decide that a complaint being handled in accordance with the informal resolution procedure should be referred to the IPCC. The Monitoring Officer should only make this decision where matters come to light during the informal resolution process which indicate the commission of a criminal offence, thus leading to the earlier decision as to whether or not the complaint was a serious complaint being reversed;
- 3.5 the power to authorise a single Panel Member or a person who is not a Panel Member (but who is not a PCC, a DPCC nor the Chief Executive) to take any action identified as part of the informal resolution process;
- 3.6 the IPCC may choose to refer a Serious Complaint (or a Complaint that it required to be referred to it) back to the Panel, in which case the Monitoring Officer must handle it in accordance with Part 4 of the Regulations unless Part 4 has been disapplied and the matter has been handled separately or in respect of which no further action is to be taken. A Conduct Matter referred back to the Panel may be

dealt with by the Monitoring Officer in whatever manner the Officer thinks fit; and

- 3.7 to provide an update report to each quarterly scheduled meeting of the Panel about all complaints considered in the preceding quarter by the Monitoring Officer, the action taken (including any obligations to act, or refrain from acting, that have arisen under the regulations, but have not yet been complied with or have been contravened) and the outcome of the process.

## **Lincolnshire Police and Crime Panel**

### Protocol for the Informal Resolution Procedure Regarding Complaints made against the PCC

- When the decision has been made to record a complaint that will not subsequently be referred to the Independent Police Complaints Commission (the IPCC), the Chief Executive of the Office of the PCC will:
  - send a record of the complaint to the complainant and to the person complained about (in the latter case, subject to any decision taken not to supply a copy of the complaint or to supply the complaint in a form which keeps anonymous the identity of the complainant or of any other person) and will include the contact details of the Host Authority's Monitoring Officer and the Panel's Support Officer; and
  - refer the record, and copies of all the associated paperwork, to the Host Authority's Monitoring Officer and the Panel's Support Officer. This will be no later than two working days after the complaint has been recorded.
- On receipt of the complaint, the Monitoring Officer will:
  - write to the complainant, setting out timescales and providing details about the informal resolution procedure; and giving the complainant an opportunity to make further comments in support of his/her complaint (allowing him/her two weeks to respond). Where the Monitoring Officer believes that the circumstances of the case are such that the complaint may be seen to have been resolved, he/she will ask the complainant to provide his/her representations in this regard and these will be taken into account; and
  - write to the person complained about, setting out timescales and providing details about the informal resolution procedure; and giving him/her an opportunity to make comments in response to the complaint (allowing him/her two weeks to respond).
- The Monitoring Officer will make a brief report, setting out the pertinent details of complaint, recording any failure by the person complained about to comment on the complaint.
- The Monitoring Officer 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 Monitoring Officer's reasons will be recorded and notified to the parties.

- If, on receipt of the evidence the Monitoring Officer feels that the matter needs to be formally resolved, he/she will decide its course of action. In accordance with regulations (the regulations), the Monitoring Officer may not conduct an investigation. The Monitoring Officer may exercise his/her delegated powers to require the person complained against to provide information or documents or attend a meeting 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 be likely to amount to investigation.
- The Monitoring Officer will consider whether to devise an action plan and in so doing 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 such action plan may include (for example):
  - An explanatory letter being written by an officer of the Panel (or on behalf of the Monitoring Officer),
  - An explanatory letter being written by an officer of the Office of the Police and Crime Commissioner,
  - A suggested change to the Office of Police and Crime Commissioner policy; or
  - A request that an apology is tendered (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).
- The Monitoring officer will also decide whether he/she wishes to:
  - to take any steps identified in the action plan,

- authorise any named individual (who may not be a PCC, a DPCC or the Chief Executive of the Office of the PCC) to take any steps in accordance with the action plan; or
  - refer the matter to the Panel recommending that the identified action be taken.
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- Once the actions from the plan have been completed, the Monitoring Officer may determine that the matter has been resolved. The Monitoring Officer must make a record of the outcome of the informal resolution as soon as practicable, normally within three working days, after the process is completed and provide copies to the complainant and the person complained against. The matter will then be closed.
  - No part of the record may be published by the Monitoring Officer unless, having given the parties an opportunity to make representations about the proposed publication and having considered any such representations, the Monitoring Officer considers that publication is in the public interest.
  - The Panel's Support Officer will liaise with the Monitoring Officer to prepare an update report to each quarterly scheduled meeting of the Panel about all complaints considered in the preceding quarter by the Monitoring Officer, the action taken (including any obligations to act, or refrain from acting, that have arisen under the regulations, but have not yet been complied with or have been contravened) and the outcome of the process.
  - If, at any stage, the IPCC informs the Panel that they require the complaint to be referred to them, or if the Monitoring Officer decides that the complaint should be referred to the IPCC, the informal resolution process must be discontinued. The Monitoring Officer should only decide that the complaint should be referred if matters come to light during the informal resolution process which indicates the commission of a criminal offence, thus leading to the earlier decision as to whether or not the complaint was a serious complaint being reversed.
  - At any stage, the Panel and its Support Officers may seek legal advice from the Panel's Monitoring Officer.