

# **AVON AND SOMERSET POLICE AND CRIME PANEL COMPLAINTS PROTOCOL**

## **Introduction**

The Police and Crime Panel (the Panel) is responsible for handling non-criminal complaints against the Police and Crime Commissioner for Avon and Somerset (PCC), and criminal complaints and conduct matters that are referred back to the Panel by the Independent Office for Police Conduct (IOPC). Arrangements for the Panel's role in complaints handling are set out in the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 and accompanying Home Office Guidance.

## **Purpose of the Protocol**

- To explain how complaints against the PCC are dealt with by the Panel.
- To reassure the public that complaints against the PCC are dealt with fairly and appropriately.
- To reassure the public that the Panel will refer any complaint relating to a criminal offence to the IOPC.

## **Scope of the Panel's Activity**

The complaints procedure covers issues relating to the conduct of the PCC. If you consider the PCC has not acted appropriately in relation to a matter for which the PCC has responsibility, you may raise this issue under the Panel's complaints procedure.

## **Submitting a Complaint**

The Panel has agreed to delegate responsibility for the initial handling and recording functions to the PCC's Chief of Staff (Chief Executive and Monitoring Officer) in the Office of the Police and Crime Commissioner.

To make a complaint against the PCC, you can email:-

[pcc@avonandsomerset.pnn.police.uk](mailto:pcc@avonandsomerset.pnn.police.uk)

Or contact in writing:-

The Chief of Staff

Avon and Somerset Office of the Police and Crime Commissioner

Valley Road

Portishead

Bristol

BS20 8JJ

Complaints regarding operational policing, the Chief Constable and other Police officers are not dealt with by the Panel. Further details can be obtained by contacting the email address above.

## **Delegation of non-criminal complaints to the Chief of Staff**

The Chief Executive and Monitoring Officer in the Office of the Police and Crime Commissioner, will consider all non-criminal complaints regarding both quality of service and conduct, make a recording decision and act to broker local resolutions to resolve complaints in the first instance.

The Panel will receive a monitoring report at every meeting which will provide summary information in relation to complaints against the Commissioner and their status. Where a decision is taken to record a complaint, a copy of the register and action plan will be attached to the report. Members have the ability to undertake periodic dip-sampling of complaints to provide assurance with regard to the handling process.

The Chief of Staff is supported in this duty by members of the OPCC. Please see Annex A Avon and Somerset PCC Complaints Process Flow for further details of how the OPCC manage this function.

The Panel is the final arbiter of complaints against the PCC and complaints will be referred to the Panel if:-

- The complainant is not satisfied with how the complaint has been dealt with;
- The Chief of Staff considers there to be an actual or perceived conflict of interest in dealing with the complaint;
- The IOPC refers a matter back to the Panel;
- There is a request for a review/escalation of a complaint by a member of the Panel.

## **Panel consideration of Complaints**

The Panel has the ability to deal with complaints using 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.

The Panel may take such steps as appropriate to resolve the matter including referring the issue to a sub-committee. A Complaints Sub-Committee was established on 30<sup>th</sup> October 2014 to carry out delegated functions of the Panel associated with the complaints handling process and the informal resolution of complaints. The Sub-Committee will decide on the most suitable course of action to assist with the informal resolution of the complaint.

The Panel can resume responsibility for informal resolution at any time.

Informal resolution will be discontinued if the Panel decides the complaint should be referred to the IOPC or if the IOPC notifies the Panel that they require the complaint to be referred to them.

## **Informal Resolution**

The Sub-Committee will first consider if the complaint has already been satisfactorily dealt with. If it appears it has, it may decide to take no further action.

The intention is for the informal resolution process 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 power to require the PCC to provide information and documents and to attend to answer questions. This does not amount to an investigation.
- The complainant and the PCC must be given the opportunity to comment on the complaint as soon as is practicable.
- Any failure by the PCC to comment on the complaint when invited to do so will be noted in the written record.
- The Panel has no power to tender an apology on behalf of the PCC or impose a formal sanction.

The Sub-Committee may find there are recommendations which emerge naturally from its findings/consideration of the matter and these may be passed to the PCC to implement. In attempting to secure a resolution the Sub-Committee is required to consider whether further information, clarification or explanation is required and/or whether any actions are required and can be agreed between the parties.

## **Timescales**

Wherever possible complaints will be acknowledged within 10 working days. Matters requiring informal resolution by the Panel will be considered by the Complaints Sub-Group as soon as practicable or at the next Panel meeting.

## **Reference to the Independent Office for Police Conduct**

The Panel is not responsible for investigating or determining whether a crime has been committed.

Any conduct matter and any serious complaint (a complaint about conduct that constitutes or involves, or appears to, the commission of a criminal offence) must be reported to the IOPC as soon as possible. The IOPC can also require a complaint to be referred.

Referrals should be made 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.

To fulfil this duty, the Chief of Staff will notify the Chair of the Panel and the Clerk and the matter will be referred to the IOPC.

If the Panel is handling the complaint directly, then the Panel will be responsible for the referral.

The complainant and the person complained about will 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.

## **Appeals**

There is no right of appeal against the outcome of informal resolution.

A complaint about the way in which a matter was handled (maladministration) can be made to the Local Government Ombudsman.

### **Complaints relating to the PCC's decision not to uphold a Police Complaint Review**

Since 1st February 2020, the Police and Crime Commissioner has become the appropriate authority to review low level Police Complaints. This process (formerly known as an appeal) relates to complaints under Schedule 3 of the Police Reform Act 2002. A review is not a re-investigation, but an opportunity to independently assess whether complaint handling complied with the Police (Complaints and Misconduct) Regulations 2020, under which complaints must be dealt with 'reasonably and proportionately'.

The Police and Crime Commissioner (PCC) is an elected representative of the community and his/her conduct should not discredit the office. The PCC is subject to a Code of Conduct which sets out the expected standards of personal and professional behaviour. However, the Panel's complaints handling process is not an appropriate way in which to challenge findings in relation to a Police Complaint Review. Both the Panel and the CEO will consider all PCC complaints independently and impartially, however those relating to dissatisfaction as a direct result of a review outcome will not be considered.

There is no right of appeal to the Panel or any other body in relation to a Police Complaint Review. If anyone wishes to challenge the outcome of a Police Complaint Review, the only option is to apply for a Judicial Review.

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