

## **DEVON AND CORNWALL POLICE AND CRIME PANEL**

**Subject:** Proposal for handling non-criminal complaints about the Police and Crime Commissioner

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### **Executive Summary:**

The purpose of this paper is to:

- a) summarise the statutory functions of the Police and Crime Panel (the PCP)
- b) make proposals for dealing with non-criminal complaints against the Police and Crime Commissioner (the PCC)
- c) identify the options available to the Panel; and
- d) recommend the adoption of a procedure for dealing with such complaints

The Office of the Police and Crime Commissioner (OPCC) has prepared a report (attached) setting out their proposals.

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### **Recommendations & Reasons for recommended action:**

It is recommended that the Police and Crime Panel:

1. consider the adoption of option D for handling non-criminal complaints about the Police and Crime Commissioner, as outlined in the OPCC's report.
2. reviews the arrangements after they have been in operation for a period of one year

Should the Panel prefer Option D, it is recommended that:

- a) a summary document about complaints received and resolved is presented to each Panel meeting by the OPCC
  - b) twice a year, the Panel receives a detailed report about the themes, trends, significant issues and relevant data about complaints received and resolved; and
  - c) a robust 'dip-sampling' process is agreed and delegated to the chair of the Panel in consultation with the host authority's Monitoring Officer.
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### **Alternative options considered, and reasons for recommended action:**

Legislation requires that a formal arrangement concerning the handling of non-criminal complaints about the PCC is agreed.

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### **Background Papers:**

None

## **1. Introduction**

- 1.1 Police and Crime Panels have a statutory responsibility to deal with non-criminal complaints against the PCC (and his deputy where one is appointed). PCPs may delegate some or all of those functions.
- 1.2 Complaints about the PCC will inevitably include a wide range of issues some of which should be redirected to other individuals or organisations.
- 1.3 Some complaints may be disagreements about a particular policy of the PCC and, therefore, not categorised as a complaint. These would need to be treated with sensitivity when notifying the complainant and referring the matter to the PCC for their consideration/information.
- 1.4 Other complaints may need to be referred to the:
  - PCC if the complaint is about the Chief Constable
  - Devon and Cornwall Police Professional Standards Department if the complaint is about the police
  - Independent Police Complaints Commission (IPCC) in the case of serious/criminal complaints
- 1.5 Although awareness about all complaints relating to the PCC and policing matters may provide useful information to assist with the PCP's wider scrutiny work, the scope of the PCP's activity in dealing with non-criminal complaints about the PCC is much more narrowly drawn. Such complaints may include, for example, rudeness or making inappropriate references to people, places or issues.
- 1.6 If the PCP decides to delegate any or all of its functions, it should ensure that it has appropriate measures in place to check that complaints are being dealt with in a way it considers satisfactory.

## **2. Options for handling non-criminal complaints about the PCC**

- 2.1 In the attached report from the OPCC, four options for the handling of complaints are outlined.
- 2.2 The advantages and disadvantages of each are summarised as follows:

### **3. Option A: The Panel/host authority retains all functions (receive, record, categorise and informally resolve complaints)**

- 3.1 Advantages:
  - Allows access to all information in the incoming 'complaint postbag', which may be useful in providing the PCP with a better overview of issues and could help inform the PCP's wider scrutiny work.
  - Makes it easier for the PCP to properly supervise the handling of complaints.
  - Generally avoids issues related to the potential conflict of interest if complaints were dealt with by the Chief Executive of the PCC.
  - Provides reassurance to the public that there is no bias in complaint handling or skewed presentation of data about complaints received about the PCC.

### 3.2 Disadvantages:

- The PCP must be able to comply with its obligations to record and effectively refer matters to the IPCC (careful thought might have to be given to whether this can be achieved without undue delay caused by the need to arrange extra formal panel meetings). The IPCC suggests that it would be helpful for arrangements to be in place such that serious incidents can be recorded and referred outside normal office hours.
- The number and complexity of incoming complaints is unknown at this stage. As a result it is difficult to gauge how demanding this would be on PCP and host authority resources in terms of the staff and associated training which might be necessary
- No extra money is available for the host authority if the PCP agrees this option. If a significant number of complaints were to be received, the host authority would have to consider dividing the cost of operating the complaints handling and resolution process amongst the 13 local authorities which comprise the PCP.
- Distraction from the main business and purpose of the PCP because of the time involved in actually dealing with complaints.

## 4. **Option B: The Chief Executive of the OPCC receives, records and categorises complaints.**

### 4.1 Advantages:

- The PCC is bound to be an obvious point of contact for complaints from the public about a wide variety of policing matters – even if alternative contact points are advertised. The Chief Executive of the PCC might therefore be the natural focus for collation and sorting of these complaints.
- The Chief Executive of the PCC may be able to draw on relevant legal expertise more easily than the host authority.
- It could be argued that the costs of carrying out the work should fall on the PCC – rather than the host authority. The OPCC is willing to absorb such costs and already has a system in place to handle complaints.
- It might also be argued that the PCC Chief Executive could be more independent than the PCP from a political perspective.
- Discussion on the complaint handling statistics provided by the PCC could be a useful agenda item to promote liaison and discussion when the PCC attends PCP meetings.

### 4.2 Disadvantages:

- A robust additional procedure would need to be put in place to ensure that complaints about the PCC or their deputy were being properly handled.
- Even with robust procedures in place, it might be hard to convince the public that there is an independent process in place for dealing with complaints about the PCC.
- No extra money is available for the host authority if the PCP agrees this option. If a significant number of complaints were to be received, the host authority would

have to consider dividing the cost of operating the complaints handling procedure amongst the 13 local authorities which comprise the PCP.

## **5 Option C: The Panel retains responsibility for the informal resolution of complaints.**

### 5.1 Advantages:

- This arrangement would help the PCP to concentrate on its main role of scrutinising and reviewing the decisions made by the PCC.
- The Chief Executive of the PCC might have more resources available in terms of dedicated staff to investigate such matters.
- Complaints about the PCC might arrive in batches which would require considerable input to investigate and resolve. It may be easier for the Chief Executive of the PCC and her staff to respond and re-direct staff to investigate cases where there are unpredictable fluctuations in workload.
- This arrangement would support arguments that the costs of dealing with particularly time consuming cases should not fall to the host authority, but instead should rest with the OPCC particularly where the actions of the PCC may have, in effect, generated the complaints.
- Discussion on the complaint resolutions carried out by the PCC could be a useful agenda item to promote liaison and discussion when the PCC attends Panel meetings.

### 5.2 Disadvantages:

- A robust additional procedure would need to be put in place for the PCP to be satisfied that informal resolution of complaints was being secured in a satisfactory manner and that, where necessary, matters would be referred back to the PCP.
- Providing reassurance to the public that there is an independent process in place for dealing with complaints about the PCC might be difficult.
- No extra money is available for the host authority if the PCP agrees this option. If a significant number of complaints were to be received, the host authority would have to consider dividing the cost of operating the informal resolution process amongst the 13 local authorities which comprise the PCP.

## **6 Option D: The Chief Executive of the OPCC receives, records and categorises complaints and is responsible for the informal resolution of complaints.**

### 6.1 Advantages:

- This arrangement would enable the PCP to fully concentrate on its main role of scrutinising and reviewing the decisions made by the PCC.
- The Chief Executive of the PCC may be able to draw on relevant legal expertise more easily than the host authority.
- It could be argued that the costs of carrying out the work should fall on the PCC – rather than the host authority. The OPCC is willing to absorb such costs and already has a system in place to handle complaints.
- If there is a good PCC/panel route for communication – the complaint statistics provided by the PCC could be a useful focus and catalyst for discussions when the PCC attends panel meetings.

- No additional funding would be required from the 13 local authorities that comprise the Panel.

## 6.2 Disadvantages:

- Robust additional procedures would be needed for the PCP to be satisfied that complaint handling and informal resolution of complaints were being dealt with in a satisfactory manner and that, where necessary, matters would be referred to the IPCC rather than being dealt with informally
- Providing reassurance to the public that there is an independent process in place for dealing with complaints about the PCC would be more difficult.

## 7 Preferred option

7.1 The likely number of complaints will be one of the factors which will influence the balance of advantages and disadvantages outlined above. The level of complaints is, at this stage, impossible to estimate as it will depend upon a number of unforeseen variables including:

- the PCC (and his deputy, if appointed) and how controversial their plans are
- local media coverage
- controversial issues locally
- how well the complaints arrangements are advertised

7.2 Currently, the OPCC is handling the receipt, recoding and categorisation of complaints. To-date, no non-criminal complaints have been received by the OPCC. This is in line with the majority of Panels across the country.

7.3 The host authority's officers and the chair of the Panel have carefully considered the advantages and disadvantages of each option and, on balance, suggest that the Panel considers the adoption of option D.

7.4 In order to ensure that robust procedures are in place to ensure that complaint handling and resolution is dealt with satisfactorily, it is suggested that 'dip sampling' includes checking that:

- a) the complaints procedure is well publicised and easily understood
- b) robust procedures for the receipt and recording of complaints are in place
- c) complaints are 'sifted' and recorded in a fair and transparent way and are not, for example, lost in the system
- d) complaints are responded to in a timely fashion
- e) complaints are dealt with in an open minded and impartial way
- f) responses are proportionate: one size does not fit all

7.5 Whichever option is agreed by the Panel, it is suggested that the PCP reviews the process for handling and resolving complaints after the agreed process has been in place for one year.