



**The Office of the Police and Crime Commissioner for Devon and Cornwall and  
the Isles of Scilly**

**Police and Crime Panel Meeting**

**09 April 2013**

**Report of the Police and Crime Commissioner**

Open for the purposes of FOI

**Proposed arrangements for complaints handling regarding  
complaints against the Police & Crime Commissioner**

**Recommendation:**

That the Police & Crime Panel delegate complaints handling, informal resolution and related information provision (Option D) to the Chief Executive of the Office of the Police & Crime Commissioner

That the Police & Crime Panel confirms its preferred method of monitoring the complaints handling process in the event that a delegation is made.

This report has been drafted to assist the Police and Crime Panel (PCP) in reaching a decision as to how members wish to discharge the PCP's statutory duty to handle complaints made against the Police & Crime Commissioner for Devon and Cornwall (PCC).

Background

1. The role of the Police and Crime Commissioner is governed by the Police Reform and Social Responsibility Act 2011 (PRORA 2011) and associated secondary legislation including the Policing Protocol Order 2011 (PPO 2011) and The Elected Local Policing Bodies (Complaints & Misconduct) Regulations 2012 (*the regulations*).
2. The PPO 2011 provides for the PCP to have responsibility for handling complaints about the PCC and if the PCC were to appoint one a deputy PCC (DPCC). The reference to "complaints" within this brief is limited to what are known as "qualifying complaints" within a statutory process. These are complaints about the **conduct** of the PCC, or deputy (ie not his/her lawful policies or strategies).
3. Serious complaints are qualifying complaints which constitute or involve, or appear to constitute or involve, the commission of a criminal offence. These complaints must be referred to the Independent Police Complaints Commission (IPCC).



4. *The regulations* impose a duty on the PCP to ensure that it is kept informed in relation to any matters relating the PCC which fall within the regulations (ie the handling of complaints and misconduct allegations).
5. If a member of the public wishes to appeal against the outcome of a complaint which PCP has a responsibility to handle he/she is able to do so to the Local Government Ombudsman.
6. The PCP is required to make a decision as to how it prefers complaints against the PCC to be handled in the long term. The present arrangement, made on an interim measure, provides for the PCP to refer such complaints to the Chief Executive (CE) of the Office of Police & Crime Commissioner (OPCC).

#### Actions for the PCP

7. In reaching a decision the PCP must choose to delegate all, some, or none of its functions within the complaints process, or delegate them only in particular circumstances. The PCP's primary functions with regards to complaints are:
  - Initial handling of complaints and conduct matters
  - Resolution of non-criminal complaints
  - Provision and recording of information
8. The PCP is required to take responsibility for informal resolution but under *the regulations* it can appoint a sub-committee, single member of the PCP or another person who is not a member of the PCP to secure informal resolution.
9. Where complaints have been received one of three outcomes should be achieved:
  - i. Where the complaint falls into the definition of a "serious complaint" it must be referred to the IPCC. A serious complaint is one which alleges the PCC has committed a criminal offence.
  - ii. Where the PCP considers the complaint requires action but is not so serious as to require referral to the IPCC – an process of informal resolution should be pursued
  - iii. Where the PCP considers neither of the above apply and the complaint falls into categories under S15 (3) of *the regulations* the PCP can handle the complaint in whichever manner they choose including taking no action. Matters falling under S15 (3) include, for example, complaint which are anonymous, vexatious, oppressive etc
10. The Local Government Association (LGA) has issued guidance to PCPs in a document entitled "Handling complaints about the Police & Crime Commissioner and their Deputy". The document proposes that four options are considered by PCPs in reaching a decision as to how complaints should be handled – to include delegating all, some or none of its functions. These are set out below.

### Options for delegation

11. **OPTION A) PCP/host authority retains all functions and does not delegate any of its duties to handle initial complaints, provide resolution process for non-criminal complaints and provide information and recording process.**
12. Where this is the preferred option – the PCP should satisfy itself that it has the necessary resources in terms of staff, funding and training to be able to record and deal with complaints and conduct matters and referrals to the IPCC as required by *the regulations*. Variations of Option A include:
  - Delegating initial complaint handling and/or informal resolution delegation to a sub-committee or to a particular person on the panel.
  - Delegating initial complaint handling and/or informal resolution to the monitoring officer of the host authority (Plymouth City Council).
13. **OPTION B) A “triage” role for the Chief Executive of the OPCC (ie delegation of receipt, initial handling and recording functions of the PCP)**
14. Regulation 7 enable PCPs to delegate initial receipt and handling of complaints and the recording function to the chief executive in her role as the monitoring officer for the OPCC. It is also anticipated that some initial investigation work would be required to enable a decision to be reached as to the appropriate body to deal with the complaint.
15. (By way of information - the PCP should be aware that although it has the power to delegate OPCCs do not have the legal obligation to accept the delegation. The Chief Executive of the OPCC for Devon and Cornwall has indicated she is willing to accept the delegation if preferred).
16. **OPTION C) Make arrangements for providing informal resolution**
17. The PCP may choose to retain the “triage” role but choose to delegate undertaking informal resolution, rather than providing it collectively.
18. Under the regulations the PCP may choose to appoint a sub-committee from the PCP, an individual from the PCP or another individual who is not a member of the PCP to conduct informal resolution. Non PCP members can include the Chief Executive of the OPCC or other organisations for example a private mediation company.



**19. D) Delegation of triage and informal resolution activity to Chief Executive of the OPCC**

20. The PCP may choose to delegate both options B and C to the Chief Executive of the OPCC to consider, distribute and handle complaints, provide informal resolution and ensure recording functions for the PCP are achieved.

This has the benefit of conserving the PCP's time, budget and host authority office resources – enabling the PCP to concentrate on its primary function of scrutinising and reviewing the PCC's decisions.

**21. Under all the options the PCP will retain at all times its overall responsibility for handling complaints made against the Police & Crime Commissioner. This is not negated by a decision to delegate the complaints processes to any other person or organisation.**

22. At the time of writing this report no complaints, which would fall to the statutory process, have been received against the PCC by the OPCC.

**Proposed process to retain oversight of complaints handling**

23. Where the PCP decides to delegate one or more of its functions it may wish to retain oversight by:

- A simple summary document – see example at Annex A being made available to each PCP meeting
- Receiving a twice yearly report as to themes, trends, significant issues and relevant data with regards to incoming and/or recorded complaints.
- Putting a dip-sampling system in place. This could include tracking a selected number of cases if required.

**Sue Howl  
Chief Executive  
Office of Police and Crime Commissioner  
March 2013**

**Complaints against the Commissioner – Report to Panel (9 April 2013)**

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| <b>Date Complaint received</b> | <b>Summary</b> | <b>Handled by</b> | <b>Outcome</b> | <b>Live or closed</b> |
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