

Agenda item

Police and Crime Panel

Meeting to be held on 10th December 2018

THE POLICING AND CRIME ACT 2017 – UPDATE ON CHANGES TO POLICE COMPLAINTS SYSTEM

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1. Executive Summary

- 1.1. This report sets out the current position with regard to the changes to be introduced to the Police Complaints regime consequent of the Policing and Crime Act 2017 (the Act) and the likely timeframe for change.

2. Recommendation

- 2.1. That the update in relation to changes to the Police Complaints System be noted and also agree that a further report be presented when the date for the introduction of the changes outlined is confirmed in 2019.

3. Background and Advice

- 3.1. The Act introduced various changes to the Police Complaints regime including:-
 - Changes to the ability of police officers subject to misconduct proceedings to resign and changes to the barred officers list arrangements;
 - Changes to the Independent Police Complaints Commission structure and constitution including a change of name to the Independent Office for Police Conduct (IOPC) (which took effect on 8th January 2018);
 - The introduction of the concept of super complaints – which has not yet taken effect; and

- The introduction of changes to the Police Complaints Regime including an enhanced role for Police and Crime Commissioners (expected to take effect in 2019).

3.2. This paper sets out the changes to the Police Complaints regime in more detail and describes the approach being taken in Lancashire to these changes.

4. Overview of the changes to the Police Complaints regime

4.1. The Act made a number of changes to the police complaints regime in order to increase public confidence and to simplify the system. These changes included:-

- Introducing a broader definition of a complaint;
- Allowing low level customer services issues to be resolved informally outside of the formal process;
- Requiring that all complaints are recorded unless the complainant withdraws the complaint or it is decided to address it informally;
- Removing the different options for handling complaints and replacing them with a duty for appropriate authorities to handle complaints in a reasonable and proportionate manner; and
- Simplification of appeal points so that there is one right of appeal in relation to the outcome of the complaint.

4.2. The Act also seeks to strengthen the role of Police and Crime Commissioners (PCC's) in the complaints process. It introduces new duties which are mandatory and also allows Police and Crime Commissioners to choose to take over a number of functions. It will also allow Police and Crime Commissioners to delegate their complaint handling powers.

4.3. There are three options under the Policing and Crime Act for Police and Crime Commissioners:-

Option 1 – Reviews - Mandatory

The PCC will have an express duty in relation to the oversight of the complaints process. Police and Crime Commissioners will become the body to deal with all reviews (currently known as appeals) which are currently heard by the Chief Constable – this does not include appeals in relation to potentially criminal or serious misconduct issues which will be heard by the IOPC.

Option 2 – Customer Service approach for low level complaints

Police and Crime Commissioners may choose to receive and record all complaints and to resolve low level complaints outside of the formal process.

Option 3 – Single Point of Contact with Complainants

Police and Crime Commissioners may decide in addition to options 1 & 2 to become the single point of contact with complainants throughout the process unless the matters are being investigated by the IOPC. However, formal investigation of complaints will still remain with police forces.

5. Timetable

5.1. The timetable for the introduction of these changes to the Police Complaints regime is not currently clear. It was originally intended that they would take effect in June 2018. Whilst, this date was pushed back until at least March 2019, recent guidance from the Home Office suggests that the date will now be pushed back further into the New Year.

6. The position in relation to the Police Complaints changes in Lancashire

6.1. The PCC has indicated his intention to adopt Option 1 of the Policing and Crime Act changes, the Mandatory option, to take over the review/appeals process for police complaints from the Chief Constable. The PCC also decided not to take up options 2 and 3 at this stage but will continue to keep this under review.

6.2. The PCC has also supported the introduction of a more customer serviced focussed approach to lower level complaints through the introduction of the Constabulary's 'service recovery' team to handle lower level complaints.

6.3. This involves early contact with complainants by a dedicated 'Triage Team' within the Constabulary's Professional Standards Department (PSD) in order to establish further details about the matters in question. The complainant's desired outcome is also discussed in order for PSD to work towards providing a conclusion that works for both the Constabulary and the complainant prior to the recording of a formal complaint. It has been established that on average 51% of Complainants did not wish to proceed with the formal complaint process under Schedule 3 of the Police Reform Act but instead wanted an explanation, apology or a quick resolution.

6.4. The move towards Service Recovery has improved public satisfaction and public trust through a process of effective and timely communication which then allows the Constabulary to learn important lessons; addressing any documented concerns.

6.5. The OPCC will continue to update the Police and Crime Panel on progress and on the expected timescale for implementation of the relevant aspects of the Act.

7. Impact on the Lancashire Police and Crime Panel Complaints Procedure

7.1. The Panel handles complaints in respect of the Police & Crime Commissioner and his deputy. Under paragraph 10 of the Procedure the Panel has delegated its authority for the initial handling of complaints, together with other aspects of the process, as set out in the procedure, to the Secretary. As set out separately on this Agenda the Panel is updated on these matters at each meeting.

7.2. The Lancashire Police and Crime Panel Complaints Procedure makes clear that its remit is to consider all non-criminal complaints directed against the Police and Crime Commissioner (and Deputy) and any matter referred back to the Panel by the IOPC.

7.3. The Home Office do not expect that the PCC's new role in police complaints as described above should lead to an increase in complaints about the PCC that the Panel is required to deal with. This is because complaints about this issue are extremely unlikely to relate to PCC personal conduct issues. In addition, Panels will not provide an additional tier of appeal for complainants who are not satisfied with the PCC's decision following a complaint appeal/review.

7.4. However it is acknowledged that the PCC's management of the aspects of the complaints process that they are responsible for will be a legitimate area of scrutiny for the Panel to consider. So for example, if the Panel begins to receive significant numbers of complaints about the PCC's management of police complaints, this may indicate issues the Panel may wish to scrutinise in the future.

7.5. The Panel can also expect the publication in the coming months of new Guidance on the handling of complaints against PCCs. It is understood the Home Office and LGA have been undertaking work to develop this Guidance, including building on the IOPC guidance on vexatious and unreasonable complainants as well as providing guidance on managing complaints about PCCs arising from their new role in police complaints going forward. Once received a copy of the guidance will be provided to the panel for information.

8. Consultations

N/A

8.1. Implications:

This item has the following implications, as indicated:

The implementation of the Policing and Crime Act 2017 will require changes to the responsibilities of the PCC and the operation of the Panel's Complaints Handling Procedure as set out in this report.

a) Legal Implications

The Police and Crime Panel Procedures for the handling of Complaints as adopted by the Panel comply with the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 which are issued under the Police Reform and Social Responsibility Act 2011 for the handling of complaints and matters concerning the conduct of the holders of the office of Police and Crime Commissioner (and Deputy). On the enactment of the changes in the Policing and Crime Act 2017, the Panel will need to approve changes in the Lancashire Police and Crime Panel Complaints procedure to reflect the changes made by the Act.

b) Financial Implications

There are no direct financial implications arising from this report. It is proposed the continued handling of such complaints will be contained within existing resources.

c) Risk management

The requirement to monitor, handle and record complaints against the PCC and DPCC is in accordance with the provisions of The Elected Policing Bodies (Complaints and Misconduct) Regulations 2012.

**Local Government (Access to Information) Act 1985
List of Background Papers**

<u>Paper</u>	<u>Date</u>	
<u>Contact/Directorate/Tel</u>		
The Policing and Crime Act – LGA	21.12.17	David Fairclough HR, Legal & Corporate Services 01254 585642