

Agenda item

Police and Crime Panel

Meeting to be held on 9th March 2020

UPDATE TO LANCASHIRE POLICE & CRIME PANEL COMPLAINTS PROCEDURE

Contact for further information:

David Fairclough (01254) 585642 Secretary Lancashire Police & Crime Panel,
david.fairclough@blackburn.gov.uk

Executive Summary

This report proposes changes to the advisory notes in the Police & Crime Panel Complaints Procedure consequent of the Policing and Crime Act 2017 amending the handling of Police Complaints matters by the Commissioner.

Recommendation

That the Panel approve the updating of the advisory paragraphs in the introductory section of the Lancashire Police and Crime Panel Complaints Procedure as set out in this report.

Background and Advice

In December 2018 the Panel received a report detailing changes to the Police Complaints Procedure and the potential implications for the Panel Complaints Procedure.

That report outlined:

The Policing and Crime Act 2017 introducing 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; and
- The introduction of changes to the Police Complaints Regime including an enhanced role for Police and Crime Commissioners (the subject of this report which has now taken effect).

The paper then set out the changes to the Police Complaints regime in more detail and described the approach being taken in Lancashire to these changes.

Overview of the changes to the Police Complaints regime

It reported that 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.

It also reported that the Act also seeks to strengthen the role of Police and Crime Commissioners (PCC's) in the complaints process. It introduced 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.

There were three options under the Policing and Crime Act for Police and Crime Commissioners outlined:-

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.

Timetable

The timetable for the introduction of these changes to the Police Complaints regime was not originally clear. It was originally intended that they would take effect in June 2018, then March 2019, but has only recently come into force.

The position in relation to the Police Complaints changes in Lancashire

The PCC confirmed in the earlier report he has adopted 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 decided not to take up options 2 and 3 at this stage but will continue to keep this under review.

The PCC as has been previously reported 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.

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.

The PCC reports 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.

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

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

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.

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.

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.

However it is acknowledged that the PCC's management of aspects of the police 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.

What is clear is that it will be important to set out to complainants the separation of the two processes, i.e. those involving the personal conduct of the PCC (covered by Panel Arrangements) and Police conduct complaints (covered by the Police Complaints process as outlined above). This is so complainants do not consider an Appeal to the Panel is a further option should they be dissatisfied with the response they receive as regards a police complaints matter. It is suggested therefore that the advisory note at the beginning of the Lancashire Police and Crime Panel Complaints Procedure be updated as set out in Paragraph 2. (Highlighted)

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Legal Implications

The procedures 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.

Financial Implications

There are no direct financial implications arising from this report. The handling of such complaints will as now be contained within existing resources from the Home Office Grant.

Risk management

The requirement to handle, monitor 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>
Changes to Complaints Procedure	February 2020	David Fairclough HR, Legal & Governance 01254 585642