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NOTICE OF MEETING – Hampshire Police and Crime Panel Complaints Sub-Committee

Date and Time Monday, 19th August, 2019 at 10.30 am

Place Ell Court, Hampshire County Council, Winchester, SO23 8UJ

Enquiries to members.services@hants.gov.uk

FILMING AND BROADCAST NOTIFICATION

This meeting may be recorded and broadcast by the press and members of the public.

AGENDA

1. WELCOME AND APOLOGIES FOR ABSENCE

2. DECLARATIONS OF INTEREST

To enable Members to declare to the meeting any disclosable pecuniary interest they may have in any matter on the agenda for the meeting, where that interest is not already entered in their appointing authority's register of interests, and any other pecuniary or personal interests in any such matter that Members may wish to consider disclosing.

3. MINUTES OF PREVIOUS MEETING (LESS EXEMPT) (Pages 5 - 8)

To confirm the minutes from the meeting of the Complaints Sub-Committee held on 24 September 2018 and the non exempt minutes from the meeting held on 17 January 2019.

4. UPDATE TO GOVERNANCE DOCUMENTS (Pages 9 - 16)

To consider a report providing suggested revisions to the Panel's Complaints Protocol.

5. SUMMARY OF POWERS - COMPLAINTS PROCEDURE (Pages 17 - 20)

6. EXCLUSION OF PRESS AND PUBLIC

Members are asked to consider passing the following motion:

That, under the provisions of Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985, the press and public be excluded for the consideration of the following items on the grounds that the reports(s) contain or there may otherwise be disclosed information which is defined as exempt in Part 1 of Schedule 12A to the Local Government Act 1972 and that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The reasons for exemption of the listed Items are shown below:

Item(s): 7, 8 and 9

Paragraph(s):

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual

7. MINUTES OF PREVIOUS MEETING (EXEMPT) (Pages 21 - 26)

To confirm the exempt minutes from the meeting of the Complaints Sub-Committee held on 17 January 2019.

8. TO REVIEW A COMPLAINT MADE AGAINST THE POLICE AND CRIME COMMISSIONER FOR HAMPSHIRE (Pages 27 - 48)

(a) To consider the complaint made against the Police and Crime Commissioner for Hampshire.

(b) To consider comments received (Annexe 1).

(c) To consider additional comments received by the complainant (Annexe 2).

(d) To consider additional comments received by the complained against (Annexe 3).

9. TO REVIEW A COMPLAINT MADE AGAINST THE POLICE AND CRIME COMMISSIONER FOR HAMPSHIRE (Pages 49 - 92)

- (a) To consider the complaint made against the Police and Crime Commissioner for Hampshire.
- (b) To consider additional comments received by the complainant (Annexe 1).
- (c) To consider additional comments received by the complained against (Annexe 2).

ABOUT THIS AGENDA:

This agenda is also available on the 'Hampshire Police and Crime Panel' website (www.hants.gov.uk/hampshire-pcp) and can be provided, on request from 01962 847336 or members.services@hants.gov.uk, in alternative versions (such as large print, Braille or audio) and in alternative languages.

ABOUT THIS MEETING:

The press and public are welcome to attend the public sessions of the meeting. If you have any particular requirements, for example if you require wheelchair access, please call the telephone number/use the e-mail address above in advance of the meeting so that we can help.

Appointed Members of the Police and Crime Panel attending this meeting qualify for travelling expenses in accordance with their Council's 'Member's Allowances Scheme', as set out in the agreed Police and Crime Panel Arrangements.

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**HAMPSHIRE POLICE AND CRIME PANEL
COMPLAINTS SUB-COMMITTEE**

**Monday, 24th September, 2018 at 11.00 am
Held at Hampshire County Council, Winchester**

Councillors:

Chairman

a Bob Purkiss

p Jan Warwick
(Hampshire County Council)

p Ken Muschamp
(Rushmoor Borough Council)

p Lisa Griffiths
(Winchester County Council)

a Frank Rust
(Additional Local Authority Co-opted
Member)

BROADCASTING ANNOUNCEMENT

The Chairman announced that the press and members of the public were permitted to film and broadcast the meeting. Those remaining at the meeting were consenting to being filmed and recorded, and to the possible use of those images and recordings for broadcasting purposes.

1. WELCOME AND APOLOGIES FOR ABSENCE

Apologies were noted from Bob Purkiss (Chairman) and Cllr Frank Rust.

In the absence of the Chairman it was proposed that Cllr Warwick act as Chairman for the meeting which was seconded by Cllr Ken Muschamp and agreed by all those Members present.

2. UPDATE TO GOVERNANCE DOCUMENTS

Members considered the draft amendments which had been proposed to the complaints governance documents previously adopted by the Hampshire Police and Crime Panel (PCP).

Members agreed the amendments as outlined within the report of the Democratic Support Officer to the Panel.

RESOLVED:

That the Sub-Committee agree the updated Protocol for the Informal Resolution Procedure Regarding Complaints made Against the PCC and the updated Guidance Note on the management of unreasonable complainant behaviour and report these updates to the full Panel at their next meeting on 5 October 2018.

3. OUTCOMES AND NEXT STEPS

It was agreed that the updated Governance Protocols would be published on the Panels website following report being made to the Panel meeting on 5 October 2018.

HAMPSHIRE POLICE AND CRIME PANEL COMPLAINTS SUB-COMMITTEE

**Thursday, 17th January, 2019 at 1.00 pm
Held at Hampshire County Council, Winchester**

Councillors:

Chairman

a Bob Purkiss

p Jan Warwick
(Hampshire County Council)

p Ken Muschamp
(Rushmoor Borough Council)

p Lisa Griffiths
(Winchester County Council)

p Frank Rust
(Additional Local Authority Co-opted
Member)

BROADCASTING ANNOUNCEMENT

It was announced that the press and members of the public were permitted to film and broadcast the meeting. Those remaining at the meeting were consenting to being filmed and recorded, and to the possible use of those images and recordings for broadcasting purposes.

1. WELCOME AND APOLOGIES FOR ABSENCE

Members were welcomed to the meeting. Apologies were noted from the Chairman, all other Members of the Sub Committee were noted as present. In the absence of the Chairman, Cllr Jan Warwick was nominated to Chair the meeting, which was agreed by all members present.

2. SUMMARY OF POWERS - COMPLAINTS PROCEDURE

Members reviewed the Sub-Committee's Summary of Powers. It was noted that the document made reference to the IPCC, in error, instead of the IOPC.

3. EXCLUSION OF PRESS AND PUBLIC

The press and public were excluded from the meeting during the following three items of business, as it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item there would be disclosure to them of exempt information within Paragraphs 1 and 2 of Part I of Schedule 12A to the Local Government Act 1972, being information relating to any individual (paragraph 1) or information which is likely to reveal the identity of an individual (2) and, further,

that in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

4. **TO REVIEW A COMPLAINT MADE AGAINST THE POLICE AND CRIME COMMISSIONER FOR HAMPSHIRE**

Members considered a report outlining the complaint, including comments received from the complainant and complained against. Following consideration of the report and its content, Members reached a unanimous determination in respect of the complaint made.

(Summary of an exempt minute)

5. **TO REVIEW A COMPLAINT MADE AGAINST THE POLICE AND CRIME COMMISSIONER FOR HAMPSHIRE**

Members considered a report outlining the complaint, including comments received from the complainant and complained against. Following consideration of the report and its content, Members reached a unanimous determination in respect of the complaint made.

(Summary of an exempt minute)

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(Summary of an exempt minute)

HAMPSHIRE POLICE AND CRIME PANEL

Report

Committee:	Complaints Sub-Committee
Date:	19 August 2019
Title:	Update to Governance Documents
Contact:	Democratic Services Officer to the Panel

Purpose of this report

1. The purpose of this paper is to set out revised governance documents previously adopted by the Hampshire Police and Crime Panel (PCP).

Recommendation(s)

2. That the Sub-Committee agree the updated Protocol for the Informal Resolution Procedure Regarding Complaints made Against the Police and Crime Commissioner and report this update to the full Panel at their next meeting on 4 October 2019.

Executive Summary

3. The protocol Protocol for the Informal Resolution Procedure Regarding Complaints made Against the Police and Crime Commissioner outlines the protocol under which the Complaints Sub-Committee will seek to determine complaints.
4. A number of revisions have been proposed to enhance the accuracy of the document. The proposed updated protocol can be found at appendix one.

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

Document

Location

N/A

N/A

Hampshire Police and Crime Panel

Protocol for the Informal Resolution Procedure Regarding Complaints made
Against the Police and Crime Commissioner

Initial recording of complaints received

The Chief Executive of the Office of the Police and Crime Commissioner (OPCC) will, within 10 clear working days, consider whether:

- the complaint is a complaint against the Police and Crime Commissioner (PCC)
- It is a complaint for which the Hampshire Police and Crime Panel (PCP, the Panel) is the relevant Police and Crime Panel,
- the complaint indicates the commission of a criminal offence by the PCC, in which case the complaint would be referred to the Independent Office of Police Conduct (IOPC), by the Chief Executive of the OPCC, as a potential serious complaint
- the complaint is a complaint at all;
- or is a complaint relating to an operational matter of Hampshire Constabulary (the Constabulary) to be resolved in accordance with the complaints procedures of the Constabulary.

When in accordance with the delegation to the Chief Executive of the ~~Office of the PCC~~ OPCC the decision has been made to record a complaint that will not subsequently be referred to the Independent Office for Police Conduct (~~the~~ IOPC), the Chief Executive of the ~~Office of the PCC~~ OPCC will:

- Record the date of receipt ~~and ensure that the complaint has been made on the Complaints Form at Annex 1~~
- send a record of the complaint, ~~the Complaints Form~~, to the complainant and to the person complained about (in the latter case, subject to any decision taken not to supply a copy of the complaint or to supply the complaint in a form which keeps anonymous the identity of the complainant or of any other person) and will include the contact details of the Panel's Police and Crime Panel's Complaints Sub-Committee (the sub-committee) scrutiny officer; and
- refer the record, ~~the Complaints Forms~~, and copies of all the associated paperwork, the sub-committee to the Panel's scrutiny officer. This will be no later than two working days after the complaint has been recorded.

Whilst the recording of complaints is delegated by the Panel to the Chief Executive of the OPCC, the responsibility to record any given complaint may revert to the sub-committee, with the agreement of the Chief Executive of the OPCC. Circumstances in which this would happen includes, but are not limited to, where there is a perceived or actual conflict of interest for the Chief Executive in respect of the alleged misconduct by the PCC, or where it would be administratively expedient for the panel to undertake the recording decision and/or referral to the IOPC. In such circumstances the recording of the complaint will be made by the Panel's scrutiny officer, in consultation with the Chair of the sub-committee.

Serious Complaints

- If, at any stage, the IOPC informs the Panel that they require the complaint to be referred to them, or if the Monitoring Officer, in consultation with the Chair of the sub-committee, determines that the complaint should be referred to the IOPC, the informal resolution process must be discontinued. The Monitoring Officer should only determine that the complaint should be so referred if matters come to light during the informal resolution process which indicates the commission of a criminal offence.

Acknowledgement of complaints

On receipt of the complaint, the Panel's scrutiny officer will:

- Assess the complaint to ensure that it is complete, and that it clearly identifies the alleged conduct matter
- Refer incomplete or unclear complaints back to the Chief Executive of the Office of the PCC seeking further information.
- Consider whether the complaint has been satisfactorily dealt with and if so, consulting with the complainant, to treat the complaint as withdrawn.
- write to the complainant, setting out timescales and providing details about the informal resolution procedure; and giving the complainant an opportunity to make further comments in support of his/her/their complaint (allowing him/her 14 clear calendar days to respond). Where the Panel's scrutiny officer believes that the circumstances of the case are such that the ~~Complaints Sub-Committee~~the sub-committee may decide to treat the complaint as having been resolved, ~~he/she will ask~~ the complainant will be asked to provide his/her/their representations in this regard for the ~~Complaints Sub-Committee~~ to take into account; and

write to the person complained about, setting out timescales and providing details about the informal resolution procedure; and giving him/her an opportunity to make comments in response to the complaint (allowing him/her 14 clear calendar days to respond).

Disapplication

In appropriate cases, the informal resolution procedure may be disappplied in respect of a complaint in accordance with Regulation 15 of the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 ("~~the Regulations~~"). If the Panel's scrutiny officer identifies that a complaint may be suitable for consideration for disapplication of part 4 of the Regulations, they will refer it to the Panel's Monitoring Officer.

- The Monitoring Officer, in consultation with the Chair of the ~~S~~sub-~~c~~committee, will consider the suitability of the complaint for disapplication of part 4 of the Regulations.
- In the event that disapplication is determined to be appropriate in relation to a complaint, the Monitoring Officer will write to the complainant and the PCC, notifying them of this decision where upon the complaint will be recorded as complete.
- In the event that only part of a complaint is determined to be suitable for disapplication, this will be notified to the complainant and the PCC in the notification letter, outlining those parts of the complaint to which disapplication will apply.

Any decision taken to disapply the informal resolution procedure in respect of a complaint, or part thereof, will be formally reported to the ~~Sub-Committee at~~ the first ~~meeting of the ~~S~~sub-~~c~~committee~~ ~~Meeting~~ following the date of the determination.

Meetings of the Sub-Committee

The Panel's Scrutiny Officer will convene a meeting of the ~~Complaints Sub-~~committee, normally to be held within 21 clear calendar days after the deadline for receipt of all comments to the complaint. The Panel's scrutiny officer will, ~~taking advice from the legal adviser,~~ compile a brief report for the ~~Complaints Sub-~~committee, setting out the pertinent details of complaint, recording any failure by the person complained about to comment on the complaint and making suggestions for the next steps.

- The ~~Complaints Sub-~~committee will first consider whether the complaint has been satisfactorily dealt with and, subject to any representations by the complainant, may decide to treat the complaint as having been resolved. In such a case, the ~~Complaints Sub-~~committee's reasons will be recorded and notified to the parties.
- While the ~~Complaints Sub-~~committee is prohibited from conducting an open investigation of the complaint, it does have the power to ask, of the person complained against, for documents relating to the matters referred to in the complaint and may require the ~~OPCC~~ or an officer of the OPCC to attend a meeting of the ~~s~~sub-~~c~~committee to answer questions. The ~~Complaints S~~sub-~~c~~committee may also invite the complainant to provide further information for the purpose of clarity. In exercising these powers, the ~~Complaints s~~sub-~~c~~committee will seek to ensure fairness and transparency within its proceedings and,

following legal advice, will focus on matters which substantiate or clarify a point relating to the complaint, or response to the complaint.

- The ~~Complaints-Sub-c~~Committee shall have regard to:
 - The Code of Conduct of the ~~Police and Crime Commissioner~~PCC;
 - Whether the complaint discloses a specific conduct failure on the part of the ~~Police and Crime Commissioner~~PCC, identifiable within the Code of Conduct of the ~~Police and Crime Commissioner~~PCC, or whether it relates to operational matters of the constabulary, ~~and-or~~ operational policing matters in which the Police and Crime Commissioner has no authority;
 - The remedies available to it;
 - All other relevant considerations.
- If, on considering the report, the ~~Complaints-Subsub-c~~Committee feels that the matter needs to be determined under the informal resolution procedure, it will decide its course of action. In considering this action it shall have regard to the limits on investigation, referred to above.
- The ~~Complaints-Subsub-c~~Committee will consider whether to devise an action plan (to be drawn up by the Panel's scrutiny officer) and in so doing will take into account any applicable guidance issued by the Secretary of State and may also consider any guidance issued by the IOPC pursuant to section 22 of the Police Reform Act 2002 on local resolution. Any such action plan will include an indicative timeframe.
- Any such action plan may include (for example):
 - An explanatory letter being written by an officer of the Panel (or on behalf of the ~~Complaints-Subsub-committee-Committee~~),
 - An explanatory letter being written by an officer of the OPCC,
 - A suggested change to OPCC policy; or
 - A request that an apology is tendered (no apology may be tendered on behalf of the person complained against unless that person has admitted the alleged conduct and agreed to the apology).
- The ~~Complaints-Subsub-c~~Committee will also decide whether it wishes to:
 - reconvene to take any steps identified in the action plan,
 - authorise any named individual (who may not be a PCC, a DPCC or the Chief Executive of the ~~Office of the~~ PCC) to take any steps in accordance with the action plan; or
 - refer the matter to the Panel recommending that the identified action be taken.

- Once the actions from the plan have been completed, the matter may be referred back to the ~~Complaints Sub-Committee~~ or an authorised individual may determine that the matter has been resolved. The Panel's scrutiny officer must make a record of the outcome of the informal resolution as soon as practicable, normally within three clear working days, after the process is completed and provide copies to the complainant and the person complained against. The matter will then be closed.
- No part of the record may be published by the Complaints Sub-Committee, other than that required under the Local Government (Access to Information) Act 1985, unless, having given the parties an opportunity to make representations about the proposed publication and having considered any such representations, the Complaints Sub-Committee considers that publication is in the public interest.
- The Panel's scrutiny officer will prepare an update report to each annual general meeting of the Panel about all complaints considered in the preceding 12 months by the Complaints Sub-Committee, the action taken (including any obligations to act, or refrain from acting, that have arisen under the regulations, but have not yet been complied with or have been contravened) and the outcome of the process.
- ~~— If, at any stage, the IOPC informs the Panel that they require the complaint to be referred to them, or if the Complaints Sub-Committee decides that the complaint should be referred to the IOPC, the informal resolution process must be discontinued. The Complaints Sub-Committee should only decide that the complaint should be so referred if matters come to light during the informal resolution process which indicates the commission of a criminal offence, thus leading to the earlier decision as to whether or not the complaint was a serious complaint being reversed.~~
- ~~— At any stage, the Panel's scrutiny officer may seek legal advice from the Panel's legal adviser.~~
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HAMPSHIRE POLICE AND CRIME PANEL

Complaints Sub-Committee

Report – Summary of Powers

1. Executive Summary

- 1.1. This report outlines the powers of the Police and Crime Panel Complaints Sub-Committee in relation to non-criminal complaints made against the Police and Crime Commissioner (PCC).
- 1.2 The report also sets out the actions that the Complaints Sub-Committee (CSC) may take as part of the informal resolution process.

2. Contextual Information

- 2.1. The Police and Crime Panel (PCP) has the statutory role of overseeing all complaints against the PCC and informally resolving non-criminal complaints. This is set out in the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012.
- 2.2 The Panel has delegated powers and duties under the Regulations, with the exception of Part 4 (informal resolution of complaints), to the Chief Executive of the Office of the PCC for the Hampshire Police Area. In relation to Part 4 and the informal resolution procedure, the Panel have appointed a Sub-Committee to secure the informal resolution of the complaint and report back to the Panel the conclusion of the process.

3. Process to be Followed by Complaints Sub-Committee

- 3.1 With regard to the informal resolution procedure, the Regulations state that the procedure must make provision for, as soon as practicable, giving the complainant and the person complained against an opportunity to comment on the complaint (if the latter chooses not to comment, the procedure must provide that be recorded in writing).
- 3.2 The informal resolution procedure must provide for, as soon as practicable, the making of a record of the outcome of the procedure which must be sent to the complainant and the person complained about.

4. Initial Sub-Committee Meeting – Alternatives for Consideration

4.1 The Complaints Sub-Committee may first consider whether to disapply Part 4 of the Regulations. The legislation allows for this if the CSC determines that:

- The Complaint is concerned entirely with the conduct of the PCC/DPCC in relation to a person who was working in his capacity as a member of the PCC/DPCC's staff at the time when the conduct is supposed to have taken place (this ground has presumably been included because the complainant has a separate right to raise a grievance under employment legislation).
- The matter took place more than 12 months ago and no good reason for the delay has been shown or injustice would be likely to be caused by the delay.
- The matter is already the subject of a complaint.
- The Complaint discloses neither the name and address of the complainant nor that of any other interested person and it is not reasonably practicable to ascertain such a name or address.
- The Complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints; and/or the Complaint is repetitious (in accordance with the meaning given in regulation 15(4)).

4.2 Should the CSC determine not to disapply the informal resolution procedure, it may wish to consider whether any of the following apply before reaching a conclusion:

From evidence, the complaint appears resolved:

4.2.1 Where it appears that the matter has already been satisfactorily dealt with prior to it being brought to the CSC's notice, (subject to any representations by the Complainant), the Sub-Committee may treat the matter as having been resolved. Should it choose this course of action, it must record its reasons for doing so and notify these to the parties.

From evidence, complaint appears to be one of alleged criminal conduct:

4.2.2 The CSC may receive additional comments which lead it to decide that the complaint being handled in accordance with the informal resolution procedure should be referred to the Independent Office for Police Conduct (IOPC).

From evidence, complaint does not appear resolved:

4.2.3 The CSC must consider whether it has the information available to it to reach a conclusion. Should it feel that it requires further evidence in order to reach an outcome, the CSC may hold further meetings.

4.2.4 The CSC, at any additional meeting, may require the person complained against to provide information or documents or attend before it to answer questions or give evidence.

5. Initial Sub-Committee Meeting – Formal Resolution

5.1 If the CSC agrees that the matter requires a formal resolution, it will decide its course of action. In accordance with the Regulations, the CSC is not able to conduct an investigation. Aside from requesting additional comments, or those actions discussed in paragraph 4.2.4, the CSC may not take any further steps.

5.2 The CSC can consider whether to devise an action plan in relation to the complaint, with indicative timeframes included. Such a plan could include:

- An explanatory letter being written on behalf of the CSC or the PCP;
- An explanatory letter being written by an officer of the Office of the PCC;
- A suggested change to the Office of the PCC's policy;
- A request that an apology is tendered (but it must be noted that the procedure should prohibit the tendering on behalf of the person complained against an apology for his conduct unless that person has admitted the conduct in question and has agreed to the apology.)

5.3 If the CSC draws together an action plan, it may wish to reconvene at a later date in order to review the progress of the actions. It may authorise a named individual (not the PCC or Chief Executive of the Office of the PCC) to review this on their behalf, or refer the plan to the PCP for further action.

5.4 Once all of the actions from the CSC's plan have been completed, the democratic support officer will make a record of the outcome within three working days, unless this is not practicable. Copies of this record will be provided to the complainant and complained against. The matter will then be closed.

6. Report of the Complaints Sub-Committee to the Panel

6.1 The PCP's democratic support officer will prepare an annual complaints report, which will set out the activities undertaken by the CSC in the previous year. This will include any actions taken and the outcome of the process.

6.2 No part of the record may be published by the Panel unless the parties involved have had an opportunity to make representations about the proposed publication.

6.3 The Panel has the power to determine whether, having provided the opportunity described in paragraph 6.2 above and having considered any representations received, the proposed publication of the record of the outcome of the informal resolution procedure is in the public interest. If it decided it is, the Panel has the power to publish it accordingly.

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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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