

HAMPSHIRE POLICE AND CRIME PANEL

Report

Date considered:	7 July 2017	Item:	16
Title:	Updates to Governance Documents		
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1. Executive Summary

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

2. Complaints Protocol

- 2.1 The Police and Crime Panel (PCP) has a responsibility to deal with non-criminal complaints against the Police and Crime Commissioner (the PCC), as well as criminal complaints or conduct matters that are referred back to the Panel by the Independent Police Complaints Commission (the IPCC), and to recommend a range of modifications and developments in relation to the procedure for dealing with such complaints.
- 2.2 The Chairman of the PCP, Chairman of the Complaints Sub-Committee and Legal Advisor to the PCP meet annually in order to consider and overview of how complaints have been managed over the previous year, and to review the Complaints Protocol and ensure it is fit for purpose.
- 2.3 The PCP last considered an update to the Complaints Protocol in April 2015.
- 2.4 The updated Complaints Protocol can be found at Appendix One. Changes to the protocol (other than grammatical) changes are as follows:
- 2.4.1 (Page two, seventh paragraph) Wording amended to provide greater clarity around the Panel's powers to investigate:

Previous

"While the Complaints Sub-Committee is prohibited from investigating a complaint, it may seek clarifications from the OPCC and complainant may call upon the OPCC or his authorised representative (as appropriate) to attend a meeting of the Sub-Committee to present."

Amendment

“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 to attend a meeting of the Sub-Committee to answer questions. The Complaints Sub-Committee may also invite the complainant to provide further information for the purpose of clarity. In exercising these powers, the Complaints Sub-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.”

- 2.4.2 (Page three, second paragraph) Wording amended to reflect the changes to the paragraph referred to in 2.4.1:

Previous

“If, on considering the report, the Complaints Sub-Committee feels that the matter needs to be formally resolved, it will decide its course of action. In accordance with regulations¹ (the regulations), the Complaints Sub-Committee may not conduct an investigation. The Complaints Sub-Committee may exercise its delegated powers to require the person complained against to provide information or documents or attend before it to answer questions or give evidence, as this will not be regarded as an investigation. However, any other step intended to gather information about the complaint, other than inviting the comments of the complainant and the person complained against, will be likely to amount to investigation.”

Amendment

“If, on consid²ering the report, the Complaints Sub-Committee feels that the matter needs to be formally resolved, it will decide its course of action. In considering this action it shall have regard to the limits on investigation, referred to above.”

3 Recommendations

- 3.1 That the Panel consider and agree the updated Complaints Protocol.**

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

Complaints protocol (April 2015)

<http://documents.hants.gov.uk/partnerships/hampshire-pcp/2015-04-10-pcp-item11complaintsprotocol-v2.pdf>

Hampshire Police and Crime Panel

Protocol for the Informal Resolution Procedure Regarding Complaints made
Against the PCC

- The Chief Executive of the Office of the PCC will consider whether the complaint is a complaint against the PCC, is a complaint for which the Hampshire PCP is the relevant Police and Crime Panel, 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 the decision has been made to record a complaint that will not subsequently be referred to the Independent Police Complaints Commission (the IPCC), the Chief Executive of the Office of the PCC 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 scrutiny officer; and
 - refer the record, the Complaints Forms, and copies of all the associated paperwork, to the Panel's scrutiny officer. This will be no later than two working days after the complaint has been recorded.
- 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.
 - In appropriate cases, consider in consultation with the Chair of the Sub-Committee the suitability of the complaint for disapplication of part 4 of the Regulations.

- In the event that a matter is considered suitable for a disapplication of Part 4 of the Regulations, to consult the complainant and the PCC, before determining whether a disapplication is appropriate whereupon the complaint will be recorded as complete.
 - convene a meeting of the Complaints Sub-Committee, normally to be held within three weeks of the referral of the complaint,
 - 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 complaint (allowing him/her two weeks to respond). Where the Panel's scrutiny officer believes that the circumstances of the case are such that the Complaints Sub-Committee may decide to treat the complaint as having been resolved, he/she will ask the complainant to provide his/her 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 two weeks to respond).
- 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 to attend a meeting of the Sub-Committee to answer questions. The Complaints Sub-Committee may also invite the complainant to provide further information for the purpose of clarity. In exercising these powers, the Complaints Sub-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-Committee shall have regard to:
 - The Code of Conduct of the Police and Crime Commissioner;
 - Whether the complaint discloses a specific conduct failure on the part of the Police and Crime Commissioner, identifiable within the Code of Conduct of the Police and Crime Commissioner, or whether it relates to operational matters of the constabulary, and 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 Sub-Committee feels that the matter needs to be formally resolved, 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 Sub-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 IPCC 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 Sub-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 Sub-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 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 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 quarterly scheduled meeting of the Panel about all complaints considered in the preceding quarter 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 IPCC 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 IPCC, 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 indicate 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.