



## **CHESHIRE POLICE AND CRIME PANEL**

### **COMPLAINTS MANAGEMENT SUB-COMMITTEE**

#### **TERMS OF REFERENCE AND PROCEDURE**

- (1) The role of the Police and Crime Panel's Complaints Management Sub-Committee (hereinafter called the Sub-Committee) is to administer the arrangements for non-criminal complaints made against the Police and Crime Commissioner for Cheshire (and Deputy Commissioner, when appointed); together with other complaints and conduct matters referred to the Panel by the Independent Office for Police Conduct (IOPC).
- (2) The Sub - Committee will report on its work to the Police and Crime Panel on a regular basis (minimum twice a year). It has delegated authority from the Panel to undertake all of the Panel's complaint management and resolution roles but may, if the Chair and Deputy Chair of the Sub-Committee so determine, refer matters to the full Police and Crime Panel for resolution.
- (3) The Sub-Committee will seek to resolve complaints through informal resolution. This means dealing with a complaint by resolving, explaining, clearing up or settling the matter directly with the complainant and/or the Commissioner, without investigation or formal proceedings. It is a flexible proportionate and fair process that may be adapted to the needs of the complainant and the individual complaint. This may be done, for example by correspondence and/or in a face to face meeting. The Sub - Committee cannot conduct an investigation of a complaint, such as by taking statements or obtaining evidence about it, however, as is to be expected in any fair process, it can invite the complainant and Commissioner to clarify or comment on matters.
- (4) The Sub Committee may only consider relevant complaints as defined in the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012. There are separate procedures for complaints about operational policing matters, complaints about the Chief Constable and other police officers and complaints about the Police and Crime Commissioner's staff. The Sub-Committee (and Panel) has no role to play in such complaints.
- (5) The Sub - Committee (and Panel) are not an appeals body for complaints against Cheshire Constabulary or the Chief Constable and has no legal power to look

into, investigate or order actions to be taken in such cases. Such complaints fall outside of the Sub-Committee's and Panel's jurisdiction.

- (6) The Chair and Deputy Chair of the Sub - Committee, advised as necessary by the host authority's Monitoring Officer, will determine whether a complaint can be considered by the Sub Committee.
- (7) Complaints about the merits of a decision made by the Police and Crime Commissioner; for example, where somebody disagrees with a policy the Commissioner has introduced, cannot usually be considered by the Sub-Committee, although complaints about whether a decision was taken properly and in accordance with procedures can be considered. The potential remit of the Complaints Sub-Committee necessarily matches the scope and reach of the Commissioner and the Commissioner's office.
- (8) Concern from the general public about a particular policy is something the Police and Crime Panel should be aware of, and reflect upon, as it scrutinises the Commissioner's policies. These concerns would not, of themselves be matters to be considered through the Complaints procedure.
- (9) The Sub – Committee will endeavour to conduct its work within 40 working days of receiving a complaint. The Panel's Secretariat will keep a complainant updated on progress with a complaint and inform them of any unexpected delays.
- (10) The Sub – Committee will comprise of x Panel Members<sup>1</sup>, appointed by the Police and Crime Panel. Proportionality will be in accordance with the Panel's Procedure Rules as they relate to the constitution of Sub – Committees and Working Groups. The Chair and Deputy Chair of the Sub-Committee will ordinarily be appointed at the Panel's Annual Meeting.
- (11) Sub – Committee will be advised by the Panel's Secretariat and the host authority's Monitoring Officer.

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<sup>1</sup> The number of Panel members who will serve on the Sub Committee will be determined by the Panel at its meeting on 18<sup>th</sup> September 2020.

## **Complaints Procedure**

***The Cheshire Police and Crime Panel Complaints Procedure has been drafted in accordance with the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012. Where there is any doubt over the application of the Complaints Procedure reference should be made to the Regulations.***

### **1. Introduction**

- 1.1 The aim of this procedure is to ensure that complaints made against the Police and Crime Commissioner for Cheshire (and Deputy Commissioner, when appointed); together with other complaints and conduct matters referred to the Panel by the Independent Office for Police Conduct (IOPC) are managed efficiently and transparently.
- 1.2 Details on the operation of the Complaints procedure can be found on the Panel's page of the Cheshire East Council website as can details of how previous complaints have been resolved.
- 1.3 The Complaints Management Sub – Committee will endeavour to conduct its work within 40 working days from receipt of a complaint.

### **2. Roles and Responsibilities**

- 2.1 The Complaints Procedure and the management of complaints is delegated to the Police and Crime Panel's Complaints Management Sub – Committee with the initial filtering and administration performed by the Chair and Deputy Chair of the Sub-Committee acting together.
- 2.2 The Chair and Deputy Chair of the Sub – Committee may in some circumstances determine that a complaint is best managed by the full Police and Crime Panel.
- 2.3 The Chair and Deputy Chair of the Sub – Committee (consulting with Sub - Committee members and the wider Panel as necessary), will decide the most appropriate and proportionate arrangements for managing a complaint. They are not empowered to determine the outcome of complaints other than determining that a matter need not be considered further as one or more of the circumstances set out in Appendix A applies or it is otherwise clear the complaint does not relate to the Police and Crime Commissioner (or Deputy).

- 2.4 The work of the Chair and Deputy Chair and of the Sub – Committee will be supported and advised by the Panel’s Secretariat and the host authority’s Monitoring Officer.

### **3. Making a complaint**

- 3.1 Wherever possible complaints should be submitted on the prescribed form to <sup>2</sup>. If sufficient information is not provided, further clarification may be sought. Complaints cannot be submitted by social media or by phone.
- 3.2 Complaints will be logged by the Panel’s Secretariat and acknowledged by e-mail or letter, within 3 working days.

### **4. Following receipt of a complaint**

- 4.1 Within 4 working days of a complaint being received the information provided to the Secretariat will be shared with the Chair and Deputy Chair of the Sub – Committee for determination as to whether the complaint can be considered by the Sub – Committee (or wider Panel). This decision should be taken expeditiously and ideally within 4 working days.
- 4.2 If it is determined that the matter should be referred to the Independent Office for Police Conduct (IOPC) the complainant will be informed and the IOPC contacted. If the IOPC subsequently refer the matter back to the Panel the complaint will re-enter the Police and Crime Panel’s complaints process.
- 4.3 If the Chair and Deputy Chair determine that the complaint cannot be considered by the Sub - Committee because, for example, it relates to an operational police matter, or is a complaint about the Chief Constable or a member of the Commissioner’s staff, the complainant will be informed in writing. If deemed appropriate the complainant will be advised as to how best to proceed with their complaint.
- 4.4 If the Chair and Deputy Chair consider that one or more of the circumstances set out in Regulation 15 of the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 (see Appendix A) apply, and they consider that there are not circumstances justifying the continued consideration of the complaint either in whole or in part, they shall after having given the complainant a reasonable opportunity to provide further information or clarification advise the Sub-Committee of their decision and the reasons for it. Should they choose to do so they can refer this decision to the Sub-Committee as a whole; however, if they do not their decision is final and binding. If a complaint is not considered further on this basis the fact of the complaint and the reasons why it was not considered further shall be recorded in the Register of Complaints and both the complainant and the Commissioner notified.

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<sup>2</sup> A dedicated Cheshire Police and Crime Panel email address will be created. In addition, a Cheshire East Council’s postal address will be provided.

- 4.5 If the Chair and Deputy Chair consider that the complaint should proceed, details of the complaint will be forwarded to the Commissioner or Deputy Commissioner with confidential information redacted if this is seen as necessary, they will be asked to comment on the complaint within 10 working days.
- 4.6 Whether or not a response has been received from the Commissioner or Deputy Commissioner, details of the complaint, including the form detailing the nature of the complaint, any supporting documents and any response from the Commissioner or Deputy Commissioner will be forwarded to all Sub – Committee members for initial evaluation. This will be undertaken by them within 5 working days. If the Chair and Deputy Chair determine that the Panel collectively should review a complaint details will be sent to all Panel members.
- 4.7 The Chair and Deputy Chair; having consulted with other Complaints Management Sub – Committee members, or wider Panel membership, or having held a formal meeting of the Sub – Committee to discuss the complaint and having taken advice from Officers as necessary, will determine how best to administer the complaint. Options open to the Sub – Committee include:
- Asking the complainant and or Commissioner (or Deputy Commissioner) for further written information; giving a clear timescale for its submission;
  - After fully evaluating all submitted documentation, providing written feedback to the complainant and the Commissioner; and
  - Inviting the complainant and the Commissioner (or Deputy Commissioner), with the Chief Executive, or other member of the Commissioner’s staff, to a private meeting to attempt to resolve the complaint by informal resolution. Ten days’ notice of such a meeting would normally be given.
- 4.8 If at any stage a complainant decides that they wish to withdraw their complaint, or that they wish to discontinue it, the Chair and Deputy Chair will be informed, and the Register of Complaints updated. In some circumstances the Chair and Deputy Chair may decide that they wish the Sub – Committee to proceed to consider issues arising from the complaint and should they so decide, the complainant and Commissioner (or Deputy Commissioner) will be informed accordingly.
- 4.9 If a meeting of the Sub-Committee or Panel is held to discuss an individual complaint and how it should be managed, any confidential or exempt issues will be considered in Part II of the Meeting with the press and public excluded. If allowed by national Regulations and by the Police and Crime Panel’s own Procedure Rules, the meeting may be held virtually using a technological platform approved by the host authority’s Monitoring Officer.

## **5. Record keeping**

- 5.1 A record of the outcome of the informal resolution will be made as soon as practicable after the process has been completed. Copies will be sent to the complainant and the Commissioner or Deputy Commissioner.
- 5.2 The record of the outcome of informal resolution will ordinarily be published, with any confidential information such as the name of the complainant being redacted. Before publishing, the Chair of the Complaints Management Sub - Committee will give the complainant and the Commissioner or Deputy Commissioner the opportunity to make representations in relation to the proposed publication.
- 5.3 In cases where an informal resolution cannot be agreed, the record will detail the reasons given by the parties why the matter could not be resolved.
- 5.4 The Secretariat, on behalf the Sub - Committee will maintain a formal register for the purposes of recording complaints and conduct matters under the Regulations. The Recorded Complaints and Conduct Matters Register will record key details pertaining to a complaint including the date received, the complainant, a summary of the complaint / the category into which it falls, the date on which it was recorded, actions taken on the complaint under the Regulations and any other information deemed relevant. A report detailing the number and nature of complaints will be taken to the Panel's Annual Meeting and the December meeting.

## **6. Following the consideration of a complaint**

- 6.1 There is no appeal regarding the outcome of a complaint once it has been determined.
- 6.2 The Local Government and Social Care Ombudsman has jurisdiction over the administrative functions of the Police and Crime Panel, and complainants can contact the Ombudsman if they are unhappy with the way that the complaint was handled. The Panel's complaints procedure will need to be followed to its conclusion, before the Local Government Ombudsman will become involved.

## **7. Fairness, transparency and confidentiality**

- 7.1 If a Panel member is approached by either a complainant or a potential complainant, they should take care so as not to discuss the merits of the complaint or otherwise express any views on it. The Panel member should look to confine their involvement in any interchange to explaining the complaints procedure and where the actual or potential complainant can obtain advice or register their complaint. The Panel member so approached must disclose every contact he or she has had with a complainant or potential complainant and describe the extent of their contact or interchange with him or her at the first reasonable opportunity. The Panel member should consider:

- His or her obligations under the Code of Conduct;

- Whether the contact should be seen as prejudicing their impartiality, and
  - Whether he or she should withdraw from any further involvement in the matter.
- 7.2 All information sent to Complaints Management Sub-Committee members by the Secretariat containing confidential details of any complaint and all written communication between Sub - Committee members containing confidential details of any complaint will be sent using secure, encrypted email or by Royal Mail Special Delivery post. No communication will be made by SMS (text), WhatsApp or similar media.
- 7.3 General Data Protection Regulations (GDPR) will be complied with at all times by the Secretariat, the host authority's Monitoring Officer and all Panel members.
- 7.4 The Secretariat will keep complainants updated on the progress of their complaint.

## Appendix A

The circumstances in which a complaint need not be considered further include:

- The complaint has been made by a member of the relevant office holder's staff, arising from the staff member's work as such (see Regulation 15(3)(a)).
- The complaint is more than 12 months old and there is no good reason for the delay, or the delay would be likely to cause injustice (see Regulation 15(3)(b)).
- The complaint is about conduct that is already the subject of another complaint (see Regulation 15(3)(c)).
- The complaint has been made anonymously (see Regulation 15(3)(d)).
- The complaint is deemed to be vexatious, oppressive or otherwise an abuse of process for dealing with complaints (see Regulation 15(3)(e)).
- The complaint is repetitious (see Regulation 15(3)(f), and also Regulation 15(4) for the particular circumstances in which a complaint is deemed to be repetitious).