

Complaints against the Commissioner- KPCC Policy

This policy is to be read in conjunction with the 'Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012' ('the Regulations') and the associated guidance

Any complaints made about the Police and Crime Commissioner for Kent or the Deputy PCC are to be handled by either the Police and Crime Panel ('the Panel'), or the Independent Police Complaints Commission (IPCC).

Making a complaint

A complaint is defined as "an expression of dissatisfaction by a member of the public." It covers matters of conduct (acts, omissions, statements, decisions), and those issues previously considered direction and control (organisational decisions, policies and procedures, and standards).

1. A complaint does not have to be marked as such to be considered a complaint, nor does it need to be in writing. All complaints, and purported complaints, will be registered
2. Where a complaint against the Commissioner is made, it will be the duty of the recipient to send a copy of that complaint to the Panel/Commissioner's Chief Executive.
3. *Where the Panel has delegated the power of recording complaints about conduct to the Commissioner's Chief Executive, the Chief Executive will make the decision whether to formally record the complaint.*
4. The names and addresses of the people to whom complaints should be directed should be shared between the Panel, the KPCC, and all other bodies who may reasonably be expected to receive a complaint relating to the Commissioner.

Recording a complaint

5. The Panel/Chief Executive will, on receipt of the complaint, register its receipt and details.
6. A decision will be taken whether to record the complaint formally within three working days.
7. Where the complaint is recorded, copies of the record will be provided to the complainant and the person complained about. *If the Chief Executive has the delegated power to record the complaint, he/she will send a copy of the complaint to the named individual supporting the Panel.* The identity of the complainant may be kept anonymous.

8. The Panel/Chief Executive may decide not to supply a copy of the complaint if they feel it would be against the public interest or could prejudice a criminal investigation.
9. However, the Panel/Chief Executive, will not need to record the complaint if:
 - they are satisfied that the matter under consideration is being dealt with by criminal proceedings;
 - the complaint has been withdrawn
10. The Panel/Chief Executive also has the right not to record a complaint, or a part of a complaint, where, in their judgement, the complaint is not about the conduct of the Commissioner.
11. In all cases, the complainant will be notified of the decision, and where the complaint is not being recorded, the grounds for this decision.
12. There is no right of appeal against non-recording.
13. A record will be kept of all complaints against the Commissioner, whether recorded or not.
14. If the individual then chooses to withdraw the complaint, they must do so in writing to the Panel/Chief Executive.
15. The Panel/Chief Executive will then take the steps required under section 16 of the Regulations.

Serious complaints and conduct matters, and referral to the Commission

16. Any conduct matter, or conduct matter arising from civil proceedings brought by a member of the public, must be recorded by the Panel/Chief Executive
17. Where a complaint is made that is deemed to be:
 - 17.1 A serious complaint
 - 17.2 A conduct matter, or conduct matter arising from civil proceedings brought by a member of the public
 - 17.3 Or, where the Commissioner requires it
- 17.4 Then the matter will be referred to the Commission.
18. The presumption shall be made that if there is any doubt about whether the matter should be referred, it shall be.
19. The matter will be referred as soon as is practicable, and within 24 hours in any case.

20. The complainant and the person complained about¹ will be notified if the matter is referred to the Commission.

21. Where a complaint is referred to the Commission, and the Commission determines that it requires an investigation to be carried out, this shall be done in accordance with Part 3, and Part 2, section 8, of the Regulations.

Disapplication

22. Once a complaint about has been formally recorded, the Panel/Chief Executive may under certain circumstances disapply the requirements of the regulations.

23. If a complaint falls under the following categories:

23.1 the complaint concerns the conduct of an elected individual, and is made by someone in their capacity as a member of PCC's staff at the time of the alleged conduct;

23.2 more than 12 months have elapsed between the incident, or the latest incident, giving rise to the complaint and the making of the complaint and either—

- (i) no good reason for the delay has been shown, or
- (ii) injustice would be likely to be caused by the delay;

23.3 the matter is already the subject of a complaint;

23.4 the complaint is made anonymously

23.5 the complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints;

23.6 the complaint is repetitious (please see the section below)

23.7 And the Panel/Chief Executive believes that it would be best to handle the complaint outside of this policy, then they shall do so.

24. Where it is decided that a complaint should be handled otherwise than in accordance with the local resolution procedure as permitted under paragraph 23 above the PCP/CE may decide to take no action in relation to it.

25. The Panel/Chief Executive shall notify the complainant of their decision

26. There is no appeal against the decision to handle the complaints in this manner.

Locally resolving the complaint

27. Where the Panel/Chief Executive has recorded a complaint, the Panel shall make arrangements to locally resolve the complaint (unless disapplication of the regulations has been agreed).

28. This shall be carried out as per the Kent and Medway Police and Crime Panel's Policy.

¹ The person complained about will not be informed if there is a belief that this may prejudice any possible future investigation

Actions when the complaint is resolved

29. When the complaint is finalised, the Panel will make a record of this. It shall be sent to the person complained about and to the complainant.
30. The findings will only be made public if both parties are given the chance to comment on this proposal, and the Panel feels that it is in the public interest to publish the record.

Repetitious complaints

A complaint is repetitious for the purposes of paragraph (3)(f) if, and only if—

(a) it is substantially the same as a previous complaint (whether made by or on behalf of the same or a different complainant), or it concerns substantially the same conduct as a previous conduct matter;

(b) it contains no fresh allegations which significantly affect the account of the conduct complained of;

(c) no fresh evidence, being evidence which was not reasonably available at the time the previous complaint was made, is tendered in support of it; and

(d) as regards the previous complaint or conduct matter, either—

(i) the Commission took the steps required by regulation 26(2) (action in response to an investigation report);

(ii) the complaint was resolved in accordance with the provisions of Part 4 (resolution of other complaints);

(iii) the complainant gave such notification that he withdrew the complaint as is mentioned in regulation 16; or

(iv) the police and crime panel decided to handle