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To: Kent and Medway Police and Crime Panel – 12 April 2016

Subject: Complaints against the Police and Crime Commissioner

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## **1. Introduction**

- 1.1 At its meeting on 2 June 2015, the Panel received a report on complaints against the Police and Crime Commissioner in the period May 2014-June 2015. The Panel requested a further report in twelve months (i.e. in June 2016). In order to provide information on complaints against the current Police and Crime Commissioner while she remains in office the report is presented to the Panel in April rather than in June and covers the period from April 2015 to March 2016.
- 1.2 The Elected Local Policing Bodies (Complaints and Misconduct Regulations) 2012 set out the statutory arrangements for dealing with complaints against Police and Crime Commissioners. Police and Crime Panels bear the statutory responsibility for resolving complaints and the Panel has established a Sub-Panel to undertake this role.

## **2. Complaints procedure**

- 2.1 When a purported complaint is received the Regulations provide for an initial decision to be made on whether to record the complaint and, if so, whether to disapply the Regulations. The criteria by which these decisions are made are set out in Regulations and in the existing policy (see Appendix). The Panel determined that these initial decisions should be delegated to the PCC's Monitoring Officer. This delegation was in line with clear Home Office advice and is the approach adopted by most if not all other Panels. The Explanatory Memorandum that accompanies the Regulations states: - "The Government takes the view that the task of the initial handling of complaints and conduct matters sits well with the role of the monitoring officer. Further, allowing scope for these matters to be dealt with internally in the first instance will promote the early resolution of minor complaints without unnecessary bureaucracy".
- 2.2 A complaint against the Police and Crime Commissioner is an allegation or expression of concern that she has taken or not taken an action personally. General criticisms of a PCC or of PCCs in general, or complaints about actions or lack of actions by the police do not come within the scope of the Regulations. The Government has recently consulted on possible changes to the Regulations and one of those possible changes is to make this point clearer in the Regulations.

## **3. Complaints in the last twelve months**

- 3.1 In the last twelve months there have been 10 recorded complaints against the Commissioner, compared with 9 in the period June 2014 to May 2015. Of those 10, the Regulations have been disappplied in 7 cases, 2 more than in the previous period. In line with the Panel's policy, details of the cases where the Regulations were disappplied, and the reasons for disapplication, were provided to Panel officers at the time and officers are fully satisfied that the PCC's Monitoring Officer made the correct decision in every case.
- 3.2 The 3 cases where the Regulations were applied were considered by the Complaints Sub-Panel, meeting on two occasions. In all three cases the Sub-Panel decided not to uphold the complaint.
- 3.3 Compared to the previous period, there has been a very slight increase in the number of recorded complaints against the Commissioner. It remains the case that no complaints have been upheld against the Commissioner and therefore, there has been no requirement for local resolution. The number of complaints recorded against the Kent Commissioner remains low compared with most other Commissioners.
- 3.4 There is a separate requirement under the Regulations to refer complaints about alleged criminal matters to the Independent Police Complaints Commission (IPCC). One such matter (not forming part of a complaint) was referred to the IPCC in August 2014. The IPCC published its report in September 2015 and noted in that report that, having considered the evidence, the CPS had decided not to prosecute. The IPCC report was fully discussed by the Panel at its meeting on 26<sup>th</sup> October 2015.

#### **4. Review of Policy**

- 4.1 No further changes to policy are suggested at this time.

#### **5. Recommendation**

- 5.1 That the Panel notes the contents of this report and requests a further report in June 2017.

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## Complaints against the Commissioner- OPCC Policy

<b>Version 1</b>	<b>Approved by panel 29.11.2012</b>
<b>Version 2</b>	<b>Incorporating amendments made by Panel 28.5.14</b>

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 (which includes 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 is made, it will be the duty of the recipient to send a copy of that complaint to the Commissioner's Monitoring Officer (Chief of Staff). The Police and Crime Panel has delegated the initial handling of complaints to him.
3. The Monitoring Officer will make the decision whether to record the complaint.
4. The names and addresses of the people to whom complaints should be directed should be shared between the Panel, the OPCC, and all other bodies who may reasonably be expected to receive a complaint relating to the Commissioner.

### **Recording a complaint**

5. The Monitoring Officer will, on receipt of the complaint, register its receipt and details.
6. If this has not been received via the Police and Crime Panel, the Monitoring Officer will inform the Panel both that a complaint has been received, and of the complaint's content.

7. A decision will be taken whether to record the complaint formally within three working days.
8. Where the complaint is recorded, copies of the record will be provided to the complainant and the person complained about. The Chief Monitoring Officer will send a copy of the complaint to the named individual supporting the Panel. The identity of the complainant may be kept anonymous.
9. The Monitoring Officer 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.
10. However, the Monitoring Officer 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
11. The Monitoring Officer 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.
12. In all cases, the complainant will be notified of the decision, and where the complaint is not being recorded, the grounds for this decision. A copy of this decision will be provided to the Police and Crime Panel.
13. There is no right of appeal against non-recording.
14. A record will be kept of all complaints against the Commissioner, whether recorded or not.
15. If the individual then chooses to withdraw the complaint, they must do so in writing to the Monitoring Officer.
16. The Monitoring Officer will then take the steps required under section 16 of the Regulations.

### **Serious complaints and conduct matters, and referral to the Commission**

17. Any conduct matter, or conduct matter arising from civil proceedings brought by a member of the public, must be recorded by the Monitoring Officer.
18. 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 Commission requires itthen the matter will be referred to the Commission.

19. The presumption shall be made that if there is any doubt about whether the matter should be referred, it shall be.
20. The matter will be referred as soon as is practicable, and within 24 hours in any case.
21. The complainant and the person complained about<sup>1</sup> will be notified if the matter is referred to the Commission.
22. 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**

23. The Monitoring Officer may decide, in certain circumstances, to handle or resolve a complaint differently to the policy set out below under 'Locally Resolving a Complaint'.
24. 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 section below)
- 23.7 And the Monitoring Officer believes that it would be best to handle the complaint outside of this policy, then they shall do so.
25. 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 Monitoring Officer may decide to take no action in relation to it.
26. The Monitoring Officer shall notify the complainant of their decision. A copy of the record of complaint, and of the decision to disapply, will be provided to the Police and Crime Panel.
27. There is no appeal against the decision to handle the complaints in this manner.

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

### **Locally resolving the complaint**

28. Where the Monitoring Officer has recorded a complaint, the Panel shall make arrangements to locally resolve the complaint (unless disapplication of the regulations has been agreed).
29. This shall be carried out as per Kent and Medway Police and Crime Panel's Policy.

### **Actions when the complaint is resolved**

30. 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.
31. 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.