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To: Kent and Medway Police and Crime Panel – 20<sup>th</sup> July 2017

Subject: Complaints against the Police and Crime Commissioner

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## **1. Introduction**

1.1 The Police and Crime Panel asked, in June 2014, to receive an annual report on complaints against the Police and Crime Commissioner. The previous report covered the period June 2015 to March 2016, to enable the Panel to review complaints against the outgoing Commissioner before she left office. This report covers the period from May 2016 to June 2017, i.e. the period since Mr Scott was elected Police and Crime Commissioner.

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 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 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 he has taken or not taken an action personally. General criticisms of a PCC or of PCC's in general, or complaints about actions or lack of actions by the police do not come within the scope of the Regulations. A year ago, the Government consulted on possible changes to the Regulations and one of those possible changes was to make this point clearer in the Regulations. However, to date no changes have been made in the Regulations

## **3. Complaints since May 2016**

3.1 Since May 2016 there have been 5 recorded complaints against the Commissioner, compared with 10 in the period June 2015 to March 2016. Of those 5, the Regulations have been disappplied in 4 cases, compared to 7 cases 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. There were a further 2 complaints which were not recorded as they simply repeated matters that had been dealt with previously. Decisions not to record complaints were made after consultation with Panel officers, who were in full agreement with both decisions.

3.2 In 1 case the Regulations were applied and the complaint was considered by the Complaints Sub-Panel, The Panel decided to partially uphold the complaint and made a request to the Commissioner, by way of local resolution. The Commissioner has responded to this request and the Chairman of the Complaints Sub-Panel has confirmed that he is fully satisfied with the Commissioner's response.

3.3 Compared to the previous period, there has been a decrease in the number of recorded complaints against the Commissioner, although the previous period related to a different Commissioner. The number of complaints recorded against the Kent Commissioner remains low compared with most other Commissioners. Although 1 complaint was partially upheld, this too is a low figure compared to a number of other Commissioners.

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

4.1 There is a policy adopted by the shadow Panel in 2012. There is also a procedure approved by the Panel in 2014 and used by both Panel officers and the PCC's Monitoring Officer when dealing with complaints. It is considered more helpful to have a single document covering both policy and procedure which, once approved can be published on the Panel's website. This is set out in the Appendix and contains no substantive changes from the two separate documents from which is it drawn. The Panel is recommended to approve it.

#### **5. Recommendation**

5.1 That the Panel approves the policy set out in the Appendix, notes the contents of this report and requests a further report in June 2018.

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## Complaints against the Commissioner- Policy and Procedure

<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>
<b>Version 3</b>	<b>Updating policy to clarify processes</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 are to be handled by either the Police and Crime Panel ('the Panel'), or the Independent Police Complaints Commission ('the Commission').

### **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, policies and procedures and standards.

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.

Where a complaint is made, it will be the duty of any recipient to send a copy of that complaint to the Commissioner's Monitoring Officer, who is the Chief of Staff. The Police and Crime Panel has delegated the initial handling of complaints to him.

There will be an initial consultation between the support officers of both the Police and Crime Panel and the OPCC. The Monitoring Officer will then make the decision whether to record the complaint.

### **Recording a complaint**

The Monitoring Officer will, on receipt of the complaint, register its receipt and details.

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.

A decision will be taken by the Monitoring Officer whether to record the complaint formally within ten working days and after consultation with the officers supporting the Police and Crime Panel.

Where the complaint is recorded, copies of the record will be provided to the complainant and to the person complained about. The Monitoring Officer will send a copy of the

complaint to the Police and Crime Panel. The identity of the complainant may be kept anonymous.

The Monitoring Officer may decide not to supply a copy of the complaint if he feels it would be against the public interest or could prejudice a criminal investigation.

The Monitoring Officer will not record the complaint if:

- he is satisfied that the matter under consideration is being dealt with by criminal proceedings;
- the complaint has been withdrawn

The Monitoring Officer also has the right not to record a complaint, or a part of a complaint, where, in his judgement, the complaint is not about the conduct of the Commissioner.

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. There is no right of appeal against non-recording.

A record will be kept by the OPCC and Police and Crime Panel of all complaints against the Commissioner, whether recorded or not.

If the individual chooses to withdraw the complaint, they must do so in writing to the Monitoring Officer.

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

Where a complaint is made that is deemed to be:

- A serious complaint
- A conduct matter, or conduct matter arising from civil proceedings brought by a member of the public
- Or, where the Commission requires it

then the matter will be referred to the Commission.

The presumption shall be made that if there is any doubt about whether the matter should be referred, it shall be. The matter will be referred as soon as is practicable, and within 24 hours in any case. The complainant and the Commissioner will be notified if the matter is referred to the Commission.

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**

If a complaint falls under the following categories:

- the complaint concerns the conduct of the Commissioner, and is made by someone in their capacity as a member of Commissioner's staff at the time of the alleged conduct;
- 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;
- the matter is already the subject of a complaint;
- the complaint is made anonymously
- the complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints;
- the complaint is repetitious

the Monitoring Officer may decide (after OPCC and Panel officers' initial consultation) to disapply the Regulations .

The Monitoring Officer shall notify the complainant of the decision to disapply, and how the matter will be handled, which may include taking no action. A copy of the record of complaint, and of the decision to disapply, will be provided to the Police and Crime Panel. There is no appeal against the decision to disapply the Regulations.

### **Locally resolving the complaint**

When the decision has been made to record a complaint, (and there is no decision to disapply) the Monitoring Officer will:

- Send a record of the complaint to the complainant and will include the contact details of the officers supporting the panel;
- Pass the record, and copies of all the associated documentation, to the officers supporting the panel. This will normally be no later than five working days after the complaint has been recorded.

On receipt of the complaint, the Panel officers will:

- Convene a meeting of the Sub-Panel of the Panel. This will be within four weeks of receiving the recorded complaint from the Monitoring Officer.
- Write to the complainant, setting out timescales, and what they may expect from the process. They will also request that they comment on the matter, and give ten working days to respond.
- Write to the Commissioner, and ask him to comment on the matter, giving him ten working days to respond.

The officers will compile a brief report for the Sub-Panel, setting out the pertinent details of complaint, and giving any appropriate advice.

The Sub-Panel will first consider if any action needs to be taken. If not, it will record its reasons.

If, on considering the complaint, the Commissioner's response and the officers' report, the Sub-Panel feels that the matter needs to be formally resolved, it will decide its course of action, and will suggest an action plan based on the local resolution principles. This plan will include an indicative timeframe.

The sub-committee will also decide whether it wishes to:

- reconvene to consider the matter when the action plan has been completed
- refer the matter to the Panel when the action plan has been completed

The plan may include (for example):

- An explanatory letter being written by an officer of the Panel (or on behalf of the Panel)
- An explanatory letter being written by an officer of the OKPCC
- A suggested change to OKPCC policy
- A request that an apology is tendered

The plan may, in more serious cases, first require more information being collected from the Commissioner (in addition to the response previously given) or that the Commissioner be required to appear before the Sub-Panel or Panel to provide an explanation and answer questions.

Once the actions from the plan have been completed, the matter may be referred back to the Sub-Panel or the Panel, or signed off by the Chair.

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

When the complaint is finalised, the Sub-Panel will make a record of this. It shall be sent to the Commissioner and to the complainant.

The findings will only be made public if both parties are given the chance to comment on this proposal, and the Sub-Panel feels that it is in the public interest to publish the record.

The decision of the Sub-Panel is final.