

## **Kent & Medway Police and Crime Panel**

### **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>
<b>Version 4</b>	<b>Change of nomenclature from IPCC to IOPC</b>
<b>Version 5</b>	<b>Update of OPCC staff titles</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 Office for Police Conduct (IOPC).

#### **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 Office of the Police and Crime Commissioner (OPCC) Chief Executive. 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 IOPC**

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 IOPC requires it

then the matter will be referred to the IOPC.

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 IOPC.

Where a complaint is referred to the IOPC, and the IOPC 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 OPCC
- A suggested change to OPCC 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.