



PROCEDURE FOR DEALING WITH COMPLAINTS ABOUT THE POLICE AND CRIME COMMISSIONER FOR BEDFORDSHIRE

1. Background

- 1.1 This procedure has been adopted to ensure that complaints about the Police and Crime Commissioner for Bedfordshire are dealt with in accordance with the requirements of the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012.
- 1.2 The procedure covers complaints against the Police and Crime Commissioner for Bedfordshire (the Commissioner) only. It does not cover complaints against the Commissioner's office and staff, or complaints regarding operational policing, the Chief Constable and other Police Officers. There are separate procedures for these, details of which are available on the Commissioner's website.

2. Purpose of this Procedure

- 2.1 To set out the way in which complaints about the conduct of the Commissioner will be handled by the Police and Crime Panel (PCP).
- 2.2 To reassure the public that complaints against the Commissioner are dealt with independently, fairly and appropriately.
- 2.3 To reassure the public that any complaint against the Commissioner which relates to a criminal offence will be referred by the PCP to the Independent Police Complaints Commission (IPCC).

3. Definitions

- 3.1 This procedure uses the following terms to describe the matters with which the Panel is able to deal. The definitions provided below are those used in legislation and the Panel is required to apply these when dealing with complaints about the Commissioner. It cannot substitute its own definitions or requirements.

"Complaint" is any complaint about the conduct of a Commissioner

"Conduct" includes acts, omissions, statements and decisions, whether actual, alleged or inferred. It does not however include complaints about the merits of a decision, for example where somebody disagrees with a policy the Commissioner has introduced. The PCP can consider whether a decision was taken properly and in accordance with procedures, but it cannot substitute another view for that of the Commissioner.

“Conduct matter” is an indication that a Commissioner may have committed a criminal offence, which comes to light otherwise than by way of a complaint (for example, through legal proceedings or media reporting).

“Serious complaint” is a particular type of complaint – one which alleges that the Commissioner has committed a criminal offence.

4. Making a Complaint

- 4.1 The PCP has delegated authority for the initial handling of complaints, together with other administrative aspects of the process, to Bedford Borough Council’s Monitoring Officer under Section 101(2) of the Local Government Act 1972. (Bedford Borough Council is responsible for the administration of the PCP).

A complaint form is available on the PCP’s webpages. This may be submitted electronically, or alternatively downloaded for completion. A hard copy of the form may be obtained by telephoning (01234) 228256. Forms submitted through the Panel’s webpages will automatically be forwarded to the Council’s Monitoring Officer. Complaints submitted by e-mail or in hard copy should be sent to sue.lyons@bedford.gov.uk or sent to:-

Sue Lyons
Monitoring Officer
Bedford Borough Council
Borough Hall
Cauldwell Street
Bedford
MK42 9AP

- 4.2 Remember that when submitting a complaint it is helpful to provide as much information as possible and to be specific regarding, for example what was allegedly said or done, the date it happened, and whether there were any witnesses.

5. Timescales

- 5.1 Wherever possible complaints will be acknowledged within 2 working days, and concluded within 40 working days if dealt with through informal resolution (see section 13 below).

6. Notification and Recording of Complaints

- 6.1 If a complaint relates to the conduct of the Bedfordshire Commissioner, the Monitoring Officer will record the complaint.
- 6.2 If a complaint relates to the Commissioner for another Police Force area, the Monitoring Officer will forward the complaint to the PCP for that Force area.
- 6.3 Once a complaint has been recorded, the complainant and the person complained against will be provided with a copy of the record of complaint. However:-
- If the Monitoring Officer considers it appropriate, these copies of the record may be altered to protect the identity of the complainant or any other person.
 - In some cases the Monitoring Officer may decide not to provide a copy of the record, if doing so might prejudice any criminal investigation or pending proceedings or would in some other way not be in the public interest. Any decision not to provide the record will be kept under regular review.
 - A copy of the record will not be provided if the complaint has been, or is already being, dealt with by criminal proceedings, or where the complaint is withdrawn.
 - If a decision is taken not to notify or record a complaint, the Monitoring Officer will advise the complainant that it has not been notified or recorded and the reason(s) for that decision.

7. Duty to Preserve Evidence

- 7.1 Where a complaint is made, the Monitoring Officer will ensure that all appropriate steps are taken to obtain and preserve evidence relating to the complaint. This duty is ongoing until or unless arrangements are made for the complaint to be dealt with through informal resolution (see paragraph 13 below). This is the exception because informal resolution does not involve the investigation of the complaint (i.e. obtaining evidence about it).

8. Notification and Recording of Conduct Matters

- 8.1 If an issue arises, for example as a result of a media report or legal proceedings, and it appears that the Commissioner may have committed a criminal offence, this is referred to as a conduct matter and must be recorded as such.
- 8.2 A conduct matter is therefore where no formal complaint has been received, but the matter should be treated in the same way as if there was a complaint.
- 8.3 Such matters will be recorded in the same way as a complaint unless it has already been recorded as a complaint or is the subject of criminal proceedings.

9. Reference to the Independent Police Complaints Commissioner (IPCC)

- 9.1 The PCP is not responsible for investigating or determining whether a crime has been committed. The PCP has delegated to Bedford Borough Council's Monitoring Officer responsibility for filtering complaints and deciding which complaints and which conduct matters that may be referred to him, or of which he otherwise becomes aware, may amount to criminal conduct and should be referred to the IPCC. The Monitoring Officer may take advice from the IPCC before making a referral.
- 9.2 The Monitoring Officer must refer any conduct matter (see paragraph 8 above) and any serious complaint (i.e., a complaint about conduct that constitutes or involves, or appears to, the commission of a criminal offence) to the IPCC as soon as possible and in any event no later than the close of business the day after he becomes aware that the matter should be referred.
- 9.3 The Monitoring Officer must also refer any other complaint to the IPCC if the IPCC so requires.
- 9.4 The complainant and the person complained about will be notified of any referral, unless doing so might prejudice a future investigation.
- 9.5 The IPCC may refer any complaint back to the PCP for Informal Resolution (see paragraph 13 for details of the Informal Resolution process).

10. Circumstances in which a Complaint may not be dealt with

- 10.1 The Monitoring Officer can decide not to refer a complaint to the Panel's Complaints Sub-Committee for informal resolution, or to take no action at all in respect of a complaint, in the following circumstances:-

- The complaint is from a member of the Commissioner's staff, arising from their work.
- 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.
- The complaint is about conduct that is already the subject of another complaint.
- The complaint is anonymous.
- The complaint is vexatious, oppressive or otherwise an abuse of process for dealing with complaints.
- The complaint is repetitious.

10.2 The Monitoring Officer will advise the complainant in writing if he decides not to deal with a complaint.

11. Withdrawn Complaints

11.1 A complainant can withdraw or discontinue their complaint at any time, by notifying the Monitoring Officer in writing and signing the notification. The Monitoring Officer must record the withdrawal of a complaint. If the complaint has been referred to the IPCC, the Monitoring Officer will advise the IPCC of its withdrawal.

11.2 The Monitoring Officer may decide not to treat the complaint as withdrawn, but to treat it as a conduct matter and refer it to the IPCC in accordance with the procedure set out in section 8 above. This decision will be made by the Monitoring Officer following consultation with the Chairman of the Complaints Sub-Committee.

11.3 If this happens, the person who is the subject of the complaint will be kept informed, unless to do so might prejudice a criminal investigation or pending proceedings, or would in some other way not be in the public interest.

12. Conduct occurring outside England and Wales

12.1 The Commissioner is under a duty to notify the Monitoring Officer, of any allegation, investigation or proceedings relating to their conduct outside England and Wales. The Monitoring Officer may take whatever action he thinks fit in these circumstances. This decision will be made by the Monitoring Officer following consultation with the Chair of the PCP's Complaints Sub-Committee.

13. Informal Resolution of Complaints

- 13.1 If a complaint is not referred to the IPCC (because it is not a complaint which alleges that a criminal offence has been committed) or the IPCC sends a complaint back to the Panel, it must be dealt with by a process which is called Informal Resolution.
- 13.2 Informal Resolution is a way of dealing with a complaint through the PCP itself resolving, explaining, clearing up or settling the matter directly with the complainant, without an investigation or formal proceedings (*note: the PCP does not have the legal power to undertake investigations or commence any proceedings*). Informal Resolution is a flexible process that may be adapted to the needs of the complainant and the individual complaint. The PCP has established a Complaints Sub-Committee to which it has delegated responsibility for the Informal Resolution of complaints.
- 13.3 If a complaint has already been satisfactorily dealt with by the time it comes to the Monitoring Officer's attention, the complaint may be considered resolved and no further action taken. The Monitoring Officer can take this decision following consultation with the Chair of the Panel's Complaints Sub-Committee and, where this is the case, will write to the complainant setting out details of his decision, including the reason.
- 13.4 If the complaint is referred to the Panel's Complaints Sub-Committee, the following procedure will apply:-
- (1) The Panel Secretariat will:-
 - convene a meeting of the Complaints Sub-Committee, normally to be held within three weeks of the Secretariat's receipt of the complaint or of any referral back by the IPCC.
 - write to the complainant, setting out timescales for the meeting, providing details about the informal resolution procedure, and giving the complainant an opportunity to make further comments in support of his/her complaint. Where the Panel's Monitoring Officer believes that the circumstances of the case are such that the Complaints Sub-Committee itself may decide to treat the complaint as having been resolved, the complainant will be asked to provide his/her representations in this regard for the Complaints Sub-Committee to take into account;
 - write to the person complained about, setting out timescales for the meeting, providing details about the informal resolution procedure, and giving him/her an opportunity to make comments in response to the complaint.
 - (2) The Monitoring Officer will compile a report for the Complaints Sub-Committee, setting out the pertinent details of the

complaint, recording any failure by the person complained about to comment on the complaint and making suggestions for the next steps.

- (3) The Complaints Sub-Committee will first consider whether the complaint has been dealt with satisfactorily. Subject to any representations by the complainant, the Sub-Committee may decide to treat the complaint as having been resolved. In such a case, the Complaints Sub-Committee's reasons will be recorded and notified to the parties.
- (4) If, on considering the report, the Complaints Sub-Committee feels that the matter needs to be resolved, it will decide its course of action. Neither the PCP or the Complaints Sub-Committee has the power to conduct an investigation. The Complaints Sub-Committee may however require the person complained against to provide information or documents, or attend before it to answer questions or give evidence, as this is not regarded as an investigation. However, any other step intended to gather information about the complaint, other than inviting the comments of the complainant and the person complained against, will be likely to amount to investigation and cannot therefore be undertaken.
- (5) Having considered the complaint and any comments made in response to it by the Commissioner as appropriate, the Complaints Sub-Committee will consider whether to devise an action plan (to be drawn up by the Panel's Secretariat) and in so doing will take into account any relevant guidance issued by the Secretary of State and/or by the IPCC on local resolution. Any such action plan will include an indicative timeframe. An action plan may include (for example):-
 - An explanatory letter being written by the Panel's Secretariat (or on behalf of the Complaints Sub-Committee)
 - An explanatory letter being written by an Officer of the OPCC
 - A suggested change to OPCC policy; or
 - A request that an apology is tendered (*note: the Complaints Sub-Committee cannot tender an apology on behalf of the person complained against unless that person has admitted the alleged conduct and agreed to the apology*)
- (6) The Complaints Sub-Committee will also decide whether it wishes to:-
 - Reconvene on a subsequent date to take any steps identified in the action plan itself

- Authorise any named individual (who may not be the PCC or the DPCC) to take any steps in accordance with the action plan; or
 - Refer the matter to the full PCP recommending that the identified action be taken.
- (7) Once the actions from the plan have been completed, the Monitoring Officer, following consultation with the Chair of the Complaints Sub-Committee may determine that the matter has been resolved or the matter may be referred back to the Complaints Sub-Committee. The Panel's Secretariat will make a record of the outcome of the Informal Resolution as soon as practicable, normally within three working days, after the process is completed and will provide copies to the complainant and the person complained against. The matter will then be closed.
- (8) By law, no part of the record may be published by the Complaints Sub-Committee unless, having given the parties an opportunity to make representations about the proposed publication and having considered any such representations, the Complaints Sub-Committee considers that publication is in the public interest.
- (9) If, at any stage, the IPCC advises the Panel's Monitoring Officer that it requires a complaint which is subject to Informal Resolution to be referred to them, or if the Complaints Sub-Committee decides that the complaint should be referred to the IPCC, the Informal Resolution process will be discontinued. *(Note: the Complaints Sub-Committee may only decide that a complaint should be so referred if matters come to light during the Informal Resolution process which indicate the commission of a criminal offence, thus leading to the earlier decision as to whether or not the complaint was a serious complaint being reversed).*

14. Keeping Records

- 14.1 The Monitoring Officer will keep a record of all complaints received until 12 months after the Commissioner concerned leaves office. The record will include the name of the complainant, details of the complaint and how the matter has been dealt with.

15. Appeals

- 15.1 There is no right of appeal against the outcome of the Informal Resolution process.
- 15.2 However a complaint can be made about the way a complaint has been handled, for example if it was delayed or if there was a failure to record a complaint. In the first instance the complaint should be addressed to the Chair of the PCP:-

The Chair of the Bedfordshire Police and Crime Panel
c/o The Head of Democratic Services and Registration
Bedford Borough Council
Borough Hall
Cauldwell Street
Bedford
MK42 9AP

E-mail: bedspcp@bedford.gov.uk

If the complainant is not satisfied with the response s/he receives, s/he is able to refer the matter to the Local Government Ombudsman whose address is as follows:-

The Local Government Ombudsman
PO Box 4771
Coventry
CV4 0EH

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