



OFFICE OF THE POLICE & CRIME
COMMISSIONER FOR NORFOLK

Complaints Policy

Contents

1. Introduction
2. Types of complaint
3. Persons eligible to make a complaint
4. Time limits for making a complaint
5. Complaints against Chief Constable
6. Complaints relating to Direction and Control Matters
7. Power to Direct
8. Complaints against Police and Crime Commissioner
9. Complaints against member of staff within the Office of Police and Crime Commissioner
10. Persistent Complainants
11. Other organisations involved in the complaints process
12. Complaints Process

13. Appendices

1. Introduction

- 1.1 The Police Reform and Social Responsibility Act 2011 provided for the election of a Police and Crime Commissioner (PCC) for Norfolk.
- 1.2 The Police Reform Act 2002, as amended, places a legal duty on the PCC to deal with all complaints and conduct matters relating to the Chief Constable and to monitor the handling by the Chief Constable (CC) of all complaints and conduct matters relating to the Force.
- 1.3 The PCC will also deal with complaints about the conduct of his own staff.

2. Types of Complaints

- 2.1 The PCC will consider the following types of complaint:
 - Complaints about the conduct of the Chief Constable (the complaint must relate to an incident or course of conduct in which the Chief Constable has been personally involved)
 - Complaints about any member of staff who works for the PCC
- 2.2 The PCC is not able to consider:
 - Any matter which is the subject of any legal dispute or legal proceedings
 - Complaints as defined in section 10.1 of this Policy
 - Complaints made by police officers or members of police staff.
- 2.3 Complaints about serving officers below the rank of Chief Constable are directly managed by the Force and are subject to separate policies and procedures. This Policy deals with the ways in which complaints being handled by the PCC will be dealt with.

3. Persons Eligible to make a Complaint

- 3.1 The PCC will consider complaints received from persons within the following categories:
 - Any person who has been the target of behaviour they regard as inappropriate or anyone who has witnessed such behaviour;
 - Any person who regards themselves as being adversely affected (this may involve being distressed or inconvenienced) by an incident;
 - Any person acting on behalf of and with the written permission of anyone in any of the categories above.

4. Time Limit for Submitting a Complaint

- 4.1 Whilst there is no time limit for making a complaint it would always be preferable if a person is unhappy that they should let the PCC know as soon as possible following the incident. At the maximum, no more than twelve months should have passed between the incident and the receipt of the complaint.
- 4.2 When deciding how a complaint should be dealt with the PCC may take into account the length of time taken for it to be submitted.
- 4.3 Documents may be kept in accordance with file retention policies which may mean that a delay in submitting a complaint may result in relevant documents no longer being available.

5. Complaints against Chief Constable

- 5.1 A complaint against the Chief Constable will be managed and investigated, if appropriate, in accordance with the procedure attached as Appendix 1.

6. Complaints relating to Direction and Control Matters

- 6.1 The definition of direction or control of the force is the operational responsibility and discretion held by the Chief Constable. Direction and control of the force by the Chief Constable is taken to include the direction and control by any person serving under him. Complaints relating to direction and control would concern:
 - Operational policing procedures
 - Organisational decisions
 - General policing standards within the force
 - Operational management decisions (where there are no conduct issues).
- 6.2 Complaints about direction and control may be received by:
 - The PCC
 - The Professional Standards Department
 - The Association of Chief Police Officers
 - The IPCC.
- 6.3 Any complaints received by the IPCC which are considered to relate to direction and control will be acknowledged and passed to the Professional Standards Department where they will be registered and dealt with in accordance with force procedures. The Head of Professional Standards will provide regular reports to the Chief Executive on the handling of such complaints to enable the PCC to be advised, this may include the PCC deciding to require a Chief Constable to take certain actions as detailed in Section 7 below.

7. Power to Direct

- 7.1 Section 15 of the Police Reform Act 2002, as amended, provides that in a case where it appears to the PCC that:
- (a) an obligation to act or refrain from acting has arisen in relation to a complaints matter
 - (b) that obligation is an obligation of the Chief Constable
 - (c) the Chief Constable has not yet complied with that obligation, or has contravened it

the PCC may direct the Chief Constable to take such steps as the PCC thinks appropriate and the Chief Constable must comply with any direction given.

8. Complaints against the Police and Crime Commissioner (and DPCC)

- 8.1 Complaints about the PCC and Deputy Police and Crime Commissioner (DPCC) are submitted to the Chief Executive who has delegated authority from the Police and Crime Panel (PCP) administered by Norfolk County Council to undertake the initial handling of complaints.
- 8.2 The Chief Executive will refer complaints to the Police and Crime Panel as required. Details of this process and the complaints procedure adhered to by the Panel can be found on the [Norfolk County Council website](#).
- 8.3 Serious complaints and conduct matters (those that involve or appear to involve the commission of a criminal offence) will be referred by the Chief Executive to the Independent Police Complaints Commission (IPCC) for investigation.
- 8.4 In accordance with the Elected Local Policing Bodies (Specified Information Order) 2011 the PCC will publish details of the number of complaints or conduct matters that have been brought to the attention of the PCC by the Police and Crime Panel (either because of referral from the IPCC or the subject of informal resolution by the Panel).

9. Complaints against a Member of staff within the Office of the Police and Crime Commissioner

- 9.1 These complaints relate to a member of staff employed within the Office of the Police and Crime Commissioner. Complaints against members of Police Staff will be dealt with by the Professional Standards Department.
- 9.2 On receipt of a complaint against a member of staff the PCC (or DPCC) will consult with the Chief Executive (unless the complaint relates to the Chief Executive when the discussion will be with the PCC's Chief Financial Officer).
- 9.3 Appropriate arrangements will be put in place for an investigation; if the complaint relates to a criminal matter advice will be sought from the force's Head of

Professional Standards as a matter of urgency. Any investigation may be undertaken by either the Chief Executive, the body providing internal audit services to the PCC or the Professional Standards Department depending upon the nature of the complaint.

9.4 Careful consideration will be given as to whether the member of staff subject to the complaint should be suspended pending the outcome of the investigation. This will greatly depend upon the nature of the complaint and the degree of risk involved in the continued presence of the staff member in the workplace.

9.5 If the complaint relates to the Chief Executive, consideration will be given to appointing an independent body to undertake any investigation; this could be the body providing internal audit services to the PCC, the Professional Standards Department, or some external agency.

10. Persistent etc Complainants

10.1 A [supplemental policy](#) has been published detailing how unreasonable and unreasonably persistent and vexatious complaints will be dealt with.

10.2 The PCC may decline to record a complaint if they consider that:

- the matter is already the subject of a complaint made by or on behalf of the same complainant;
- the complaint discloses neither the name and address of the complainant nor that of any other interested person and it is not reasonably practicable to ascertain such a name or address;
- the complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints;
- the complaint is repetitious (i.e. it is substantially the same as a previous complaint made by or on behalf of the same complainant, it contains no fresh allegations which significantly affect the account of the conduct complained of or no fresh evidence which was not reasonably available at the time the previous complaint was made is tendered in support of it);
- the complaint is fanciful.

10.3 Past complaint history may be taken into account where it is relevant to show that a complaint is being considered as persistent etc.

11. Other Organisations Involved in the Complaints Process

11.1 Appendix 2 sets out details of the responsibilities of other individuals and organisations have within the complaints process.

12. Complaints Process

12.1 A summary of the complaints process is included as Appendix 3.

Appendix 1

OFFICE OF THE NORFOLK POLICE & CRIME COMMISSIONER PROCEDURE FOR DEALING WITH COMPLAINTS AGAINST THE CHIEF CONSTABLE

Note:

- (a) Any reference in this procedure in bold type to a
- **section** is a reference to the Police Reform Act 2002 (“PRA02”)
 - **paragraph** is to Schedule 3 of PRA02
- (b) “Complainant” in this document includes references to an interested person where appropriate.

Background:

1. Under Part 2 of the PRA02, the Police and Crime Commissioner (PCC) has responsibility for dealing with complaints concerning the Chief Constable.
2. This document sets out the procedure to be followed upon receipt of a complaint against the Chief Constable.

Stage 1 – Initial Steps

3. The first stage upon receipt of any complaint or conduct matter involves the determination of questions set out in Table 1 below. The Chief Executive will determine the matters set out in Table 1 and, if appropriate, record the complaint. In making these determinations, the Chief Executive will have regard to the Statutory Guidance issued by the Independent Police Complaints Commission (IPCC) under **Section 22**.
4. In order to determine the questions referred to in Table 1, it may be necessary to make some initial enquiries relating to the matter. In doing so, the Chief Executive may ask for brief comments from the Chief Constable, or other suitable senior officer, so that the potential gravity of the situation can be assessed.

Table 1 – Stage 1 Steps

- (a) Upon receipt of any allegation, the first stage issues involve the determination of the following questions:
- Is the allegation a complaint? [**section 12**]
 - Is it from a person listed as able to make a complaint? [**sections 12 and 29(4)**]
 - Is the PCC the appropriate PCC? [**section 29**]
 - Is the complaint of a description specified in regulations as not requiring to be recorded? [**paragraph 2(8)**]

- (b) The obligation to obtain or preserve evidence **[paragraph 1(1) and 12(1)]** must also be addressed. Note that this is a continuing duty throughout the handling of the complaint.
-

5. (i) If the Chief Executive decides that the complaint will not be recorded, he/she will write to the Complainant stating the reasons for this decision and explaining the Complainant's right to appeal to the IPCC against the decision. The Chief Constable will also be informed of the decision and reasons.
- (ii) If the complaint is about a direction and control matter, it will be referred to the force's Professional Standards Department and dealt with under the force's policy on direction and control matters.
- (iii) If the complaint amounts to an expression of dissatisfaction with police services, it will be referred to the force and dealt with as such in accordance with established force procedures.
6. If the PCC is not the appropriate PCC under **section 29** the Chief Executive will forward the matter to the appropriate PCC.
7. If the complaint is recorded, then unless to do so might prejudice the fair determination of the matter, the Chief Executive will copy the complaint to the Chief Constable or notify him of its substance. The Chief Executive will also send the Chief Constable and Complainant a copy of this procedure at an early stage.

Stage 2 – Consideration by the PCC

8. The Chief Executive will prepare a written report for the PCC.
9. The Chief Executive will notify the Complainant and the Chief Constable of the date on which the PCC will consider the matter. If the Chief Constable or Complainant makes representations at this stage to the PCC in writing, such representations shall be disclosed to the Investigating Officer if an investigation subsequently takes place.
10. The options open to the PCC dealing with a complaint are set out in Table 2.

Table 2 – Dealing with a Complaint

- (a) Where the complaint is considered to be of a serious or exceptional nature **[paragraph 4(1)]**, the PCC must refer the complaint to the IPCC. Similarly, it must do so if the IPCC so requests **[paragraph 4(2)]**. Responsibility for dealing with the complaint then falls to the IPCC. Sometimes the IPCC will refer less serious complaints back to a PCC.

- (b) Subject to (a) above the PCC will decide whether to deal with the complaint:
- By local resolution **[paragraph 8]**
 - By voluntarily referring the matter to the IPCC **[paragraph 4(2) and (3)]**
 - By full investigation **[paragraph 16]**; or
 - In some other way or by taking no action in respect of it **[paragraph 7]**
-

11. Local Resolution. This is normally only possible if the Complainant consents. Local resolution is possible only if the PCC is satisfied that the conduct complained of, even if proved, would **not** justify the bringing of criminal or disciplinary proceedings. The use of local resolution is covered in the IPCC guidance. It is unlikely to be appropriate to resolve locally a complaint made against the Chief Constable. However, if the PCC takes this option, the Chief Executive will appoint an appropriate person to attempt to resolve the complaint. It will be paramount to ensure that the Complainant has freely given consent to deal with the matter in this way.
12. Voluntary referral to the IPCC. The complaint can be referred to the IPCC on specified grounds, even where there is no obligation so to do. The IPCC may refer the matter back to the PCC or supervise the investigation of the matter or manage the investigation of the matter, or undertake the investigation itself **[paragraph 17-19]**.
13. Full investigation. If the PCC decides to deal with the complaint by full investigation, a police officer will be appointed to investigate the matter. The officer must not be a person under the direction and control of the Chief Constable **[paragraph 16(4)]**. Nor shall the officer appointed be of less rank than the Chief Constable. The Terms of Reference for the investigation will be determined by the PCC. All subsequent determinations flowing from that principal decision will be the responsibility of the Chief Executive until receipt of the final report of the investigation.
14. Some other way **[paragraph 7(i)]**. If the PCC decides to deal with the complaint in some other way, or to take no action in respect of it, the PCC will notify the complainant accordingly **[paragraph 7(2)]**. The complainant has a right of appeal to the IPCC against such a decision by the PCC **[paragraph 7(8)]**. In relation to certain complaints the PCC must obtain the consent of the IPCC to deal with it otherwise than in accordance with Schedule 3 of the PRA02 **[paragraph 7(1A)]**. If the IPCC grants such a consent, there is no right of appeal against a decision of the PCC as to how the complaint is to be handled **[paragraph 7(10)]**. Neither is there any right of appeal if the complaint relates to a direction and control matter **[paragraph 7(ii)]**.

Stage 3 – Report of Investigation

15. If an investigation is carried out, then upon receipt of the final report of the investigation the PCC will consider the report.

Appendix 2

The Chief Constable

The Chief Constable is responsible for disciplinary matters and handling complaints against police officers, up to and including the Deputy Chief Constable. The PCC has a duty to monitor these complaints. The Chief Constable is supported by the Professional Standards Department.

Contact details:

Professional Standards and Legal Services Department
Norfolk Constabulary
Jubilee House
Falconers Chase
Wymondham
Norfolk
NR18 0WW
(email: psd@norfolk.pnn.police.uk)

The Independent Police Complaints Commission

The Independent Police Complaints Commission (IPCC) was established by the Police Reform Act 2002. The IPCC may choose to independently investigate the most serious incidents, manage an investigation by the police or supervise such an investigation.

The IPCC has the following powers:

- In relation to conduct matters concerning the PCC, to direct that a conduct matter be recorded where a PCP has not done so.
- In relation to complaints and conduct matters made about the PCC, the ability to call in complaints and conduct matters where a PCP has not referred them.
- Responsibility for deciding whether allegations of a criminal offence concerning relevant officeholders (i.e. PCC or Deputy PCC etc.) should be investigated and, if so, how i.e. managed or independent investigation.
- Powers to conduct an independent investigation, or manage a police investigation.
- To refer an investigation report to the Crown Prosecution Service where it appears that a crime may have been committed by the relevant office holder / where it is considered appropriate in the circumstances to do so. Note: IPCC investigations will not lead directly to any 'disciplinary' outcomes for a relevant office holder, though they may be required by their PCP to answer questions about the IPCC's findings.

The IPCC will not:

- Deal with any complaints or conduct matters that do not involve an allegation of criminal behaviour by a relevant office holder.

Contact Details:

The Independent Police Complaints Commission
PO Box 473
Sale
M33 0BW

The Police and Crime Panel

The Chief Executive has delegated authority from the Police and Crime Panel to undertake the initial handling of complaints. Complaints will be referred by the Chief Executive to the Panel, which comprises elected members from Norfolk County Council, as required.

The Panel policy is contained within [Complaints Procedure - Norfolk Police and Crime Panel](#)

The administration of the Panel rests with Norfolk County Council. The current chair of the Panel is Councillor Alec Byrne (Norfolk County Council).

Contact Details:

Norfolk Police and Crime Panel
Norfolk County Council
County Hall
Martineau Lane
Norwich
Norfolk
NR1 2DH

HANDLING OF COMPLAINTS

