



Dorset Police and Crime Panel

Complaints Protocol

(Updated September 2019)



Dorset Police and Crime Panel

Working for our Communities

Supporting & Scrutinising the Office of the Police and Crime Commissioner

DORSET POLICE AND CRIME PANEL COMPLAINTS PROTOCOL

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1. Introduction

The purpose of a complaints system is to put right what has gone wrong and to learn from it (Local Government Ombudsman)

These arrangements set out the process for dealing with complaints about the conduct of the Police and Crime Commissioner (PCC) for Dorset. The arrangements are made under the Police Reform and Social Responsibility Act 2011, the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 and the Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012.

The Dorset Police and Crime Panel (PCP) has statutory responsibilities under the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 relating to the recording and determination of complaints. One of the main functions of the PCP is to act as a central point for collation and recording of all complaints against the PCC, and to provide a 'gateway' to the procedures for dealing with both non-criminal and criminal complaints about the PCC or the Deputy PCC (*herein the term PCC applies equally to DPCC*).

In accordance with Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012, Dorset Police and Crime Panel has delegated authority for managing complaints to:

- Service Manager for Assurance, Dorset Council (SMA);
- Monitoring Officer, Dorset Council (DC MO);
- Chief Executive and Monitoring Officer (CEMO) of the Office of the Police and Crime Commissioner for Dorset (OPCC);
- A Complaints Sub-Committee of the PCP (CSC).

In accordance with Regulations, the CSC will not investigate. The CSC may exercise its delegated powers to require the person complained against to provide information or documents or attend before it to answer questions or give evidence, as this will not be 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 not be permitted.

Members of the CSC will undertake periodic dip-sampling of complaints files held by the CEMO and Service Manager for Assurance to provide assurance about the delegated complaints handling process.

A flow chart providing an overview of the complaints process is attached at **Annex 1**

2. Complaints Procedure

2.1 What is covered by the complaint's procedure?

The only complaints that fall within the remit of the Dorset Police and Crime Panel are those which involve the personal conduct of the PCC for Dorset.

The Complaints Sub-Committee will consider:

- Complaints relating to rudeness by the PCC,
- Complaints relating to inappropriate references to people, places or issues by the PCC;
- Very minor or spent convictions by the PCC.

The Complaints Sub-Committee will not consider:

- Criminal complaints about the Commissioner (which must be referred to the Independent Police Complaints Commission (IPCC))
- Complaints about the Dorset police force (which must be referred to Dorset Police Professional Standards Department, Police and Crime Commissioner or IPCC as appropriate); and
- Complaints relating to other organisations for example the probation service, voluntary sector organisations, the Community Safety Partnership (which must be referred to the relevant complaints procedures of those organisations).

It is important to distinguish the Panel's scrutiny role from their complaint's role. Even if a policy decision taken by the PCC generates complaints, the complaint would not fall within the remit of the Panel's role in complaints handling even though it may inform the Panel in their scrutiny role.

2.2 Disapplication of the Regulations

The PCP has the discretion to decide not to apply the Regulations in certain circumstances. In summary these are where the complaint is:

- an employment issue relating to the OPCC or Dorset Police;
- when the complainant is subject to an ongoing police investigation or criminal proceedings relating to the complaint;
- more than 12 months old;
- already the subject of a complaint;
- vexatious, oppressive or an abuse of the procedures or repetitious.

This protocol does not cover the following matters and will require a full Panel consideration rather than delegated to the subcommittee;

- A Head of Paid Service report on their concerns regarding the running of the OPCC, under their statutory obligations under section 4 of the local government housing act 1989.
- A Monitoring Officer report regarding their personal concerns on any proposal, decision or omission by the PCC (or anyone acting on their authority) which has given rise or is likely to give rise to:
 - a) A contravention of any enactment of the rule of civil and criminal law
 - b) Maladministration of failure
 - c) Breach of the PCC's oath of office
- A Treasurer report regarding their personal concerns regarding financial conduct of the PCC.

2.3 Withdrawal of a complaint

A complaint can be withdrawn or discontinued by a complainant. The relevant parties must be notified, and the fact recorded. If the complaint relates to a conduct matter, then the matter may still be investigated under the Regulations if it is in the public interest to do so. Again, all parties must be notified of any decision.

2.4 Ensuring fairness and equality for all

This complaints protocol is open for any member of the public to use. The PCP will seek to make reasonable adjustments to communicate and deliver key messages in a way that best addresses your needs. Key information can be provided in a range of alternative formats to meet your communication needs.

It is recognised that complaints relating to police and crime issues can be sensitive. Whilst every effort will always be made to resolve complaints informally to the satisfaction of those who complain, people who do choose to make a formal complaint against the PCC according to this protocol will be treated with dignity, fairness and respect regardless of their characteristics in terms of:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race, including ethnicity, colour and nationality;
- religion or belief;
- sex; and sexual orientation.

Members of the Dorset Police and Crime Panel, OPCC staff and Dorset Council are expected to treat others with fairness, dignity and respect. Equally, complainants are expected to treat them according to the same principles.

2.5 Making a Complaint

If you wish to make a complaint, please complete a complaint form available online:

<http://www.dorset.pcc.police.uk/information-hub/publication-scheme/our-policies-and-procedures/>

and post it to: Service Manager for Assurance
Dorset Council
Colliton Park
Dorchester
Dorset
DT1 1XJ.

2.6 Complaints Process

The PCP has delegated the initial handling of the complaints process to the **Service Manager for Assurance** in Dorset Council.

The SMA is the main point of contact for complaints under these Regulations and is responsible for;

- acknowledging the complaint (within 3 working days) and copying the complaint to the Chairman and Vice-Chairman of the Complaints Sub-Committee
- formally recording complaints
- correspondence with the complainant the PCC (via the CEMO)
- the recording of any formal decisions at the end of the process.

The PCC will not become involved or influence the investigation of complaints about themselves. The PCC will immediately notify the Chief Executive and Monitoring Officer (CEMO) if a complaint about their own conduct is made directly to them. The CEMO will immediately notify the Service Manager for Assurance who will then commence the process by acknowledging the complaint.

2.7 Informal resolution of non-criminal complaints

The SMA shall liaise with the Chairman and Vice-Chairman to determine if there is a need to convene a meeting of the Complaints Sub-Committee, or to refer the complaint to the CEMO for initial investigation, and, where agreed to by the complainant, informal resolution.

The Panel's decision to delegate responsibility to the CEMO is intended to ensure that 'triage' arrangements are in place to undertake an initial assessment on the appropriate course of action so that issues are dealt with swiftly and effectively to the satisfaction of the complainant.

The triage work may involve an element of investigation to gather sufficient information to be able to decide which is the appropriate body to deal with a complaint. This may involve contacting the complainant to request more information or clarification of the complaint. When the CEMO has concluded the triage against the criteria set out above, or has concluded a local resolution, they are to write to the DC MO via the Service Manager for Assurance with their findings and recommendations, (within ten working days).

The SMA will then, as required;

- Informal Resolution: Record the complaint and the resolution. Confirm the resolution in writing to the complainant and to PCC and update the CSC at the next available meeting;
- Complaints Sub-Committee (CSC) deliberation required:
 - Convene a meeting of the CSC
 - write to the PCC, setting out timescales and details and providing details about the procedure and allowing the PCC two weeks to make comments in response to the complaint;
 - with the CEMO, prepare the papers for the CSC setting out the relevant details of the complaint and recommendations
 - The CSC will meet with the CEMO to hear the report and ask further questions as required
 - All decisions will be recorded.

If, at any stage, the IPCC informs the PCP that it requires the complaint to be referred to it, or if the Complaints Sub-Committee decides that the matter has a criminal element and therefore needs to be referred to the IPCC, the informal resolution process will be discontinued.

2.8 What can the Complaints Sub-Committee do to resolve a complaint?

The Complaints Sub-Committee shall consider:

- how the complaint has been managed and responded to through the complaints protocol, including written communication to the complainant and PCC;
- any written evidence of an informal resolution;
- any further written comments from the complainant and the PCC submitted to the Sub-Committee;
- any reasons for the IPCC referring a complaint back to the Dorset Police and Crime Panel, so that these can be challenged if required;
- whether to invite the PCC to attend a subsequent meeting to answer questions about the complaint.

2.9 Making a Decision

If the Complaints Sub-Committee agrees with the CEMO that a complaint has already been resolved, the reasons for such a decision will be recorded in the meeting notes and communicated to the complainant and PCC in writing.

If the Complaints Sub-Committee decide that a complaint has not been resolved, it will determine the most suitable course of action. This may include, but not be limited to:

- an explanatory letter to the complainant;
- Suggesting a change to the OPCC policy;
- Requesting that an apology be tendered by the person complained about (no apology may be tendered on behalf of the person complained against unless that person has admitted the alleged conduct and agreed to the apology).
- referral of a serious complaint to the IPCC for investigation, or back to the IPCC if the Committee wishes to challenge the IPCC's decision.

2.10 Records Management

All records have to be kept by the Panel as required by the Regulations. The Panel will keep records of every complaint and purported complaint that is made to it, every conduct matter recorded by it and every exercise of a power or performance of a duty under the Regulations.

The SMA will make a record of any informal resolution and will, usually within 5 working days, provide copies to the complainant and the person complained about.

The copy of the record provided to the complainant and person complained against may be anonymised, or may not be provided, if to do so might prejudice a criminal investigation or proceedings, or would be contrary to the public interest. Any such decision will be kept under review by the PCP.

Details of the record can be published, but only after the parties have been given an opportunity to make representations, they have been considered and the Panel is of the opinion that they are in the public interest.

The SMA will provide a report to each quarterly meeting of the PCP, summarising any complaints that have been considered since the last meeting, including the outcome.

2.11 Resolution of serious complaints

It is the duty of a PCP to refer a complaint to the IPCC if it is determined that the complaint is a serious complaint, or the IPCC notifies the PCP that it requires the complaint to be referred.

According to Schedule 7 of the Police Reform and Social Responsibility Act 2011, a 'serious complaint' means a qualifying complaint made about conduct which constitutes or involves, or appears to constitute or involve, the commission of a criminal offence.

If the complaint is 'serious' the DC MO will refer the complaint to the Independent Police Complaints Commission (IPCC). In order to identify risks associated with vexatious, repetitious or incredible complaints, the DC Monitoring Officer will consult with the CEMO in the decision to allow that context to either be part of the decision to refer or to form part of an explanation to the IPCC as part of the referral. The referral will be made as soon as practicable and, in any event, not later than the end of the day following the day when it first becomes clear that it is a serious complaint.

The PCP will provide the IPCC with any information, documents or evidence that it requires, in the format and time specified. The PCP will also allow the IPCC access to premises either in relation to an investigation or so that the IPCC can examine the efficiency and effectiveness of the arrangements for handling complaints.

Section 30 of the Police Reform and Social Responsibility Act 2011 gives the panel the ability to suspend the Police and Crime Commissioner if it appears to the PCP that:

- (a) the Commissioner has been charged in the UK, Channel Islands or the Isle of Man with an offence; and
- (b) the offence is one that carries a maximum term of imprisonment exceeding two years.

If the PCP does ever need to consider suspension under section 30 then this will be a whole Panel rather than a Complaints Sub-Committee decision and a case for suspension would need to be made. The PCC must be afforded the opportunity to attend the PCP meeting to make personal representations in public.

2.12 Role of the Local Government Ombudsman

If at any stage a complainant is dissatisfied about the way in which the Dorset Police and Crime Panel has carried out or delegated the above functions, he/she can raise their concerns with the Local Government Ombudsman (LGO), provided that the matter has been subject to local complaint procedures which have been exhausted. If the LGO decide to seek further information from the Panel about a complaint or to pursue an investigation, they shall liaise with the Service Manager for Assurance. If a complaint relates directly to the Service Manager for Assurance's role and responsibility this matter shall be escalated to their line manager to liaise with the LGO.

The Panel will allow the LGO access to premises either in relation to an investigation or so that the LGO can examine the efficiency and effectiveness of the arrangements for handling complaints. Contact details for the LGO are included in the useful contacts section of this complaints protocol.

3. Frequently Asked Questions

3.1 Will PCCs be held to account for non-criminal behaviour?

The Regulations provide for the PCP to secure the informal resolution of a complaint concerning non-criminal behaviour. Although PCP's will not have sanctions available to them, they will be able to use their powers to require the PCC to attend a hearing to answer questions, request information and documents from the PCC, and publish a report or recommendation. Ultimately, PCCs will be held accountable by the ballot box.

3.2 What does 'informal resolution' mean?

Informal resolution is a way of dealing with a complaint by solving, explaining, clearing up or settling the matter directly with the complainant, without an investigation or formal proceedings. It is not a disciplinary process, and does not involve the imposition of any sanction. It is a flexible process that may be adapted to the needs of the complainant and the individual complaint. It may involve the person complained against explaining their conduct and, if appropriate, apologising for it. This could be done by correspondence or in a face to face meeting. The method of informal resolution is left up to the individual PCP, provided that it is in accordance with the Regulations and guidance issued by the Secretary of State.

3.3 Is there a conflict of interest in the PCC's Chief Executive having a role with the complaints made against their employer?

No. The PCP can choose to delegate the initial handling of complaints to the PCC's chief executive but does not have to do this. Ultimate responsibility for handling any complaint remains with the PCP, and it will wish to satisfy itself that the chief executive can deal with any complaint impartially. Similarly, the PCP is able to appoint the chief executive to carry out the informal resolution of a non-criminal complaint, but has a specific power to take back the informal resolution of the complaint if necessary. The Chief Executive will already have the function of assessing the lawfulness and propriety of the PCC's actions as monitoring officer, and it is not suggested that they cannot carry out that role effectively and impartially.

4. Useful Contacts

If you wish to make a complaint about the Police and Crime Commissioner for Dorset, please complete a complaint form available online at: [and send this to the Service Manager for Assurance at Dorset Council](#)

Or write to: Service Manager for Assurance
Dorset Council
Colliton Park
Dorchester
Dorset
DT1 1XJ

Any enquiries about the complaints protocol can be made in writing or by email to: marc.eyre@dorsetcouncil.gov.uk

Information about the role and responsibilities of the Dorset Police and Crime Commissioner; and the Dorset Police and Crime Panel, can be found on the Office of the Police and Crime Commissioner's website: www.dorset.pcc.police.uk/

Office of the Police and Crime Commissioner
Force Headquarters
Winfrith
Dorchester
Dorset
DT2 8DZ
Telephone: (01202 or 01305) 223966
Email: pcc@dorset.pnn.police.uk

The Local Government Ombudsman

PO Box 4771
Coventry CV4 0EH

LGO Advice Lines:

0300 061 0614

Fax: 024 7682 0001

An online contact form is available on the LGO website: www.lgo.org.uk

5. References

Home Office Police and Crime Panel Regulations

<https://www.gov.uk/government/publications/police-and-crime-panel-handling-of-complaints-and-conduct-matters-about-the-pcc>

Police Reform and Social Responsibility Act 2011.

<http://www.legislation.gov.uk/ukpga/2011/13/contents/enacted>

The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012.

<http://www.legislation.gov.uk/uksi/2012/62/made>

The Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012.

Police and Crime Panels, Handling Complaints about the Police and Crime Commissioner and their Deputy (Local Government Association, December 2012)

http://www.local.gov.uk/c/document_library/get_file?uuid=d464664f-90e9-442a-ad0f-e1fe8827e573&groupId=10180

ANNEX 1 PLEASE NOTE: If decided at any point in the process that a complaint is about matters outside the remit of this protocol, the complainant shall be informed in writing and signposted to the relevant organisation's complaints

LEGEND

- SMA – Service Manager for Assurance
- CEMO – Chief Executive/Monitoring Officer for Office of PCC
- DC MO – Dorset Council Monitoring Officer
- PCP – Police & Crime Panel
- CSC – Complaints Sub Committee
- PCC – Police & Crime Commissioner



