

Dorset Police and Crime Panel Complaints Sub Committee

Review of Complaint by Mr Hadfield

Introduction

Police and Crime Commissioners (PCC) for England and Wales were introduced as part of the Police Reform and Social Responsibility Act 2011 and subsequently elected by the public in 2012 and 2016.

Mr Martyn Underhill has been the elected Dorset PCC since 2012 and as legally required under the PCC Code of Conduct, and the requirements of the Elected Local Policing Bodies (Specified Information) Order 2011, the Commissioner is required to record and publish a register of disclosable interests. These have included the following under 'Sponsorship', 'MARK CONSTANTINE (Helped fund election expenses for November 2012 Election and 2016 Election)'. Mr Constantine is the co-founder and CEO of Lush a Dorset based cosmetics retailer.

Within the legislation provision was made for scrutiny of PCCs, by Police and Crime Panels (PCP). Whilst 'PCC complaints operate within a very narrow statutory framework', arrangements for the PCP in complaints handling are set out in the original 2011 legislation, the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012, the Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012 and any accompanying Home Office Guidance.

The Dorset Police and Crime Panel in June 2013, agreed a protocol for dealing with its statutory requirements for handling non-criminal complaints concerning the Commissioner and criminal complaints and conduct matters that are referred back to the PCP by the Independent Office for Police Complaints (IOPC), formally the IPCC. These arrangements include delegated authority for managing complaints to the Corporate Complaints Officer, Dorset County Council (DCC), now Dorset Council (DC), Monitoring Officer DCC, now DC, Chief Executive of the Office of the Police and Crime Commissioner Dorset (OPCC) and the PCP Complaints Sub Committee.

Circumstances

Over a number of years there has been a growing nationwide concern about the tactics and actions of the Metropolitan Police unit set up in the 1980's called the Special Demonstration Squad (SDS). The Dorset PCC has been a vocal critic of the tactics and individual actions of members of the SDS and as early as 2014 met with the Policing Minister to register his concerns and push for transparent action to establish the facts and learn for the future. Eventually the government established a Judge led enquiry into the activities of the SDS and this continues its work.

On the 1st June 2018 the privately owned Lush Cosmetics launched a campaign concerning the actions of the SDS which they advertised through their 100 plus shops and outlets across the country. The material used included such comments as 'Police have crossed the line' and for many people inferred that all police officers are 'paid to lie' and commit illegal acts. The provocative campaign drew a lot of media interest and criticism from many, eventually the campaign was stopped and the material removed from Lush stores and outlets.

On the same day the Dorset PCC made a number of statements both in the national media (BBC) and locally (PCC Facebook). He made it clear that he supported the Lush campaign but clearly separated

the actions of the SDS from the 'huge number of police officers who serve the public.' He also initially acknowledged the issue that the way the campaign was conducted could 'on the face of it' be viewed as anti-police'.

Following the comments made by the PCC there were a total of six individuals who raised concerns/complaints to the PCC/OPCC. One of these was a Mr J Hadfield, a local Dorset resident.

Additionally a representative from one of the Dorset Police Staff Associations raised concerns that the initial comments made by the PCC had not been well received by officers and staff.

As a delegated authority the Chief Executive (CEO) of the OPCC ensured that the complaints were recorded, acknowledged, accessed and eventually dealt with by way of informal resolution.

On the 5th June 2018 the PCC sent a message to all police and staff in Dorset regarding the Lush Campaign where he apologised for how he delivered his comments in support of the campaign and clearly identified that the campaign was 'clumsy and poorly thought through'.

As per the existing 2013 complaints procedure and protocol the CEO of the OPCC notified the DCC Monitoring Officer and in turn the Chairman of the PCP and the full PCP were updated at its regular scrutiny meetings.

Subsequently five of the six complainants made no further contact with either the OPCC or DCC/PCP upon receipt of the informal resolution. Mr Hadfield informed the OPCC that he was not content with the outcome of an informal resolution.

Between June 2018 and March 2019 there were a number of e mail and letter exchanges between Mr Hadfield, Mr S Bullock (OPCC), Mr M Taylor (DCC Lead Officer for PCP), Mr J Mair Monitoring Officer (DCC) and Mr M Short (Chairman Dorset PCP). These included Freedom of Information (FOI) requests, additional points raised by Mr Hadfield and ultimately the fact that Mr Hadfield was not satisfied with the resolution to the original concern/complaint and subsequently how it had been dealt with.

At the rearranged February 2019 PCP meeting it was agreed that the PCP Complaints Sub Committee should meet and as per the 2013 protocol (section 2.10) consider how the complaint(s) (from Mr Hadfield) had been managed and responded to. In doing so they would consider the existing written evidence, seek further evidence or clarification of existing information. Then inform Mr Hadfield of their conclusion(s), all parties involved in handling the complaint(s) and update the full PCP at its 9th July 2019 scrutiny meeting.

The PCP Complaints Sub-Committee consisted of Mr I McVie, Independent PCP Member (Chairman) and two PCP Councillor Members Mrs B Dove and Mr B Pipe. Also present were solicitor and clerk, both of whom were DCC employees. The sub-committee met on two occasions at County Hall. Firstly on 18th March 2019 where they reviewed all existing documentation (over 840 pages) and initiated a number of further lines of enquiry. Then for a second occasion on 17th April 2019 in order to review the further information and reach a conclusion to the points raised by Mr Hadfield based on the balance of probabilities.

Review and findings concerning the complaints, management and resolution.

Original Complaint – Police and Crime Commissioner, Mr Underhill.

The sub-committee understands why members of the public, police officers and employees were upset at the way in which the PCC expressed his support for the Lush 'Paid to Lie' Campaign. The committee also understands why Mr Hadfield, as an individual pursued an apology from the PCC. In the view of sub-committee the PCC is, as an elected principle, entitled and expected to express a view on topics such as the SDS and campaigns such as Lush. The sub-committee also considered how the seven principles of public life (Nolan Principles) applied to these circumstances. In their view, regardless of their personal thoughts the sub-committee believe that the PCC had not breached the Nolan principles, but has strongly expressed an opinion on a controversial subject. As the PCC acknowledged he could have explained his support for the principles behind the Lush "Paid to Lie" Campaign in a better way.

The sub-committee would also wish to make it clear that there is no evidence to indicate any prior knowledge of the campaign by the PCC or evidence to support that his views were expressed because Mr Constantine had previously supported his election campaign(s). In clear terms there is no evidence of a serious nature that would require referral to the IOPC.

Ultimately the opinion and actions of the PCC should be judged 'at the ballot box' by the electorate, which is one of the guiding principles for the introduction of PCCs by the then government of the day.

Complaints Mr S Bullock.

The sub-committee took the view that Mr Bullock has acted in accordance with the legislation and was correct in his decision to record the six complaints, including the original one from Mr Hadfield. To not have done this would have been grounds for complaints). Mr Bullock was correct in his assessments that these were all matters suitable for local resolution under the existing legislation and guidance.

The sub-committee were satisfied that Mr Bullock complied with the legislation and procedure in terms of informing the DCC Monitoring Officer. He also took the step of getting his Deputy to review his decisions and actions which we would recommend as best practice and ensures staff development and the ability of the OPCC to operate where the CEO may be unavailable when a complaint is made.

The sub-committee also reviewed the decision concerning the matters raised by the staff association and took the view that these were rightly raised as a staffing issue/concern and dealt with accordingly. They did not require recording as a complaint and were addressed correctly by the PCC to all Dorset Police employees and volunteers. The sub-committee were also satisfied that the message sent by email to all staff was from the PCC and was entirely his views and his apology for how he had initially expressed his support for the campaign and what it was trying to highlight.

In relation to the concern raised about an email sent by Mr Bullock to Mr Short and Mr Taylor requesting the content be kept confidential. The sub-committee are satisfied this was done as the contents were for internal publication only and to enable the contents of the email from the PCC to all Dorset employees to be read by as many individuals as possible before it could be subject of discussion for wider audience, for example the PCP members.

Mr Hadfield raised concerns about a redacted section on an email from Mr Bullock to Mr Taylor and Mr Short. The sub-committee have read the redacted section and can confirm that it related to another complainant and was therefore redacted correctly by the OPCC, as per FOI and GDPR legislation and guidance.

Complaints Mr M Taylor

The sub-committee took the view that Mr Taylor had acted in accordance with the legislation and were satisfied that his actions were in taken in good faith and in support of the PCP to ensure that the 2013 PCP protocol was adhered to and to ensure all complaints including Mr Hadfield's were resolved fairly.

The sub-committee though, believe that the original protocol needs revision to ensure greater clarity of who, where and when the PCP are informed of complaints. In turn this will lead to increased transparency and avoid the issues that Mr Hadfield rightly was concerned about how his complaint was managed.

Complaint Mr Short

The sub-committee took the view that Mr Short took his role in this matter, as Chairman of the wider PCP, seriously and responded to all the points raised by Mr Hadfield. Again though the sub-committee believe that the original protocol needs revision to ensure greater clarity of who, where and when the PCP are informed of complaints.

Complaints Mr Mair

The sub-committee took the view that Mr Mair had acted in accordance with the legislation and was notified of the complaints at the correct time by Mr Taylor. Again though, the sub-committee believe that the original protocol needs revision as outlined earlier in the report.

When reviewing the documentation the sub-committee did find the management of FOI requests confusing. Some of this, it is accepted, was due to the need for two organisations to manage the requests and there was some confusion caused by the applicant, as acknowledged by him in an apology to DCC. The sub-committee would suggest that Mr Mair may wish to satisfy himself, on behalf of Dorset Council, that the management of FOI requests are efficient, effective and economical. The sub-committee accept they cannot make recommendations on this matter as it is beyond their legislative responsibilities and not a matter within the remit of this review and investigation.

Complaints Mr Bullock, Mr Taylor, Mr Mair and Mr Short

The sub-committee found no evidence of collusion between these individuals to frustrate or compromise the management and resolution of the complaints made by Mr Hadfield. There was clear evidence of individuals working together, in particular Mr Bullock and Mr Taylor. The sub-committee members were also able to draw on their knowledge of how Mr Bullock and Mr Taylor have worked together over a number of years where there has been clear evidence of challenge and scrutiny in support of the role performed by the wider PCP.

The sub-committee would also wish to make it clear there is no evidence of any serious malpractice or criminal conduct by any of the individuals involved in managing and resolving the complaint.

Councillor D Smith

Whilst the PCP members were made aware of the complaints made by Mr Hadfield, one of the PCP elected councillor members, Mr D Smith, took it upon himself to directly contact Mr Hadfield concerning his complaints. This action was taken without the knowledge of the PCC, OPCC, DCC or the PCP and was done under the remit of the individual as an elected local councillor. Once the PCP were aware of this and provided advice to Councillor Smith the matter was left to be dealt by the sub-committee. The sub-committee are satisfied that the action taken by Councillor Smith was a genuine attempt to help a Dorset resident to resolve his complaint without realising the need to adhere to the agreed processes. It should be noted that Councillor Smith is no longer a councillor following May 2019 local elections.

Conclusion

The PCP Complaints Sub Committee fully appreciate why individuals were upset about how Lush Cosmetics conducted the public campaign concerning the activities of the now defunct Metropolitan Police Special Demonstration Squad. Whilst no one would condone the alleged actions of this squad and individuals within it, the method used by Lush to highlight the issues was undoubtedly misleading, ill-conceived and poorly executed, hence the level of condemnation across the country.

In terms of the PCC public support of the Lush Campaign and how this was conveyed, the sub-committee see this as a matter that should be judged 'at the ballot box' by the electorate, which is one of the guiding principles for the introduction of PCCs by the then government of the day.

The sub-committee are satisfied they have seen and reviewed all correspondence to arrive at their decision that all complaints have been correctly recorded, managed and resolved within the existing legislation and guidance. There is no evidence to support corrupt practices, collusion to frustrate complainants or deliberately mislead either members of the public or the PCP.

The sub-committee though have identified a need to review the existing complaints protocol to amend and clarify at what stage the PCP should be informed and who on behalf of the PCP this should be. The sub-committee would also wish to include increased information concerning complaints is made to the full PCP to ensure greater transparency.

ACTION: Following the appointment of the new PCP Complaints Sub-Committee members at the 9th July 2019 PCP Meeting. The sub-committee will meet to formally review the existing protocol, recommended improvements to increase scrutiny, accountability and transparency. The date for the implementation of an amended protocol will be the PCP Meeting 24th September 2019.

Mr Hadfield will be provided with a copy of this report as will all individuals subject of complaint. This report will be provided to the 9th July 2019 Police and Crime Panel for consideration.

Finally the sub-committee would like to take this opportunity to thank Mr Hadfield for raising his concerns and enabling the PCP to learn lessons and to improve upon the existing protocol for complaint handling.

Mr IJ McVie
Independent Member
Dorset Police and Crime Panel
Chair Dorset Police and Crime Panel Complaints Sub Committee
May 2019