

The Police, Fire and Crime Panel's Role in complaints

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| Report title: The Police, Fire and Crime Panel's Role in complaints | |
| Report to: Essex Police, Fire and Crime Panel | |
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| County Divisions affected: All Essex | |

1. Purpose of Report

- 1.1 This report is an opportunity for the Panel to review the Complaints procedure which was adopted by the Panel in 2016.

2 Recommendation

- 2.1 That the Panel adopts the revised policy and procedure as at appendix 1.
- 2.2 That an annual report be brought to the Panel on complaints.

3. Background

- 3.1 As the Panel will be aware, the Police, Fire and Crime Commissioner has significant influence over how the police operates although he has no right to direct the police operationally. The Commissioner does have operational control over the fire and rescue service.
- 3.2 It is clearly important that the public have confidence that the person elected as the Commissioner observes high standards of behaviour. The Panel is the body to which complaints about the Commissioner or their deputy are to be directed in the first instance. The legislation creating the role of Commissioner also made the role of Commissioner and Deputy subject to the oversight of the Independent Office of Police Conduct (formerly the Police Complaints Authority).
- 3.3 It is important to note that complaints can only be considered if they relate to an act or omission of the Commissioner or Deputy personally. However, such acts or omissions can include acts or omissions relating to how the Commissioner or Deputy has (or has not) dealt with a complaint about the Chief Constable or about the fire service. They can also be about alleged criminal misconduct of the Commissioner or Deputy in their personal life.

4. The process

- 4.1 The Panel is the gateway through which all complaints should be received. If the Commissioner or the Police receive a complaint about the Commissioner they are required by law to pass it to the Panel. If the Panel receives a complaint alleging criminal misconduct by the Commissioner or Deputy then they are required by law to refer it to the IOPC. The IOPC may investigate or they may refer it back to the Panel for local resolution. In practice, unless there is a serious allegation, the IOPC are likely to refer the complaint back to the Panel, even if it is alleged that an offence has been committed. If a complaint is not about the conduct of the Commissioner or the Deputy then the complainant would be advised to refer it to the appropriate authority.
- 4.2 The Panel must deal with complaints about the Commissioner or Deputy that are either not referred to the IOPC because the complaint does not allege that offences have been committed or complaints which are referred back from the IOPC. The panel must act in accordance with a set of regulations. In dealing with complaints the Panel has to 'resolve' the complaint – but the regulations make it clear that the Panel may not 'investigate' the complaint. The Panel can 'disapply' the regulations in certain circumstances, for example if the complaint is repetitious or vexatious, but it must consult the complainant before doing so. If the regulations are disapplied then the Panel can do what it thinks is appropriate, including taking no action at all.
- 4.3 In order to help the Panel deal with complaints it has adopted a policy. The policy sets out the statutory process and provides four routes for resolving complaints:
- **A period for local conciliation** – this is effectively a pause where the Commissioner and the complainant can work together to resolve the issue. This might be appropriate if there is willingness on both sides or if, for example the complaint has arisen through something that the Commissioner has not had the opportunity to address. By way of example, if the complaint is that the Commissioner has ignored correspondence but it turns out that the Commissioner hasn't received the correspondence, there is no need for the Panel to become involved. If this fails to resolve the dispute then another of the processes will be needed.
 - **Mediation** – This is a process whereby the parties are assisted to resolve their dispute. This is only appropriate where there is a significant dispute which is worth the resources involved and where both sides are prepared to undertake mediation. In practice this has never been used but it is felt that it is worth retaining it as an option. If mediation were to be used and failed to resolve to dispute then another of the processes will be needed.
 - **Monitoring Officer opinion** – this is where the monitoring officer expresses a view on the complaint. This is suitable for less serious matters where there is no likelihood of consensual resolution. In recent years this has been the process most often followed.
 - **Resolution by the Complaints Sub-Committee** the policy provides for the appointment of a 'reviewing officer' to draw together information on the complaint (without investigating it) and writing a report to the Complaints Sub-

Committee. The Sub-Committee then express a view on the complaint and, if they consider it appropriate, make recommendations to the Commissioner or Deputy. This is used for more serious or very complex cases, but no cases involving the current Commissioner have been referred to the Committee. It should be noted that the Commissioner does not have to accept or even respond to the recommendations. The Sub-Committee does have the power to publish its findings, but it has never opted to do so.

- 4.4 We receive very few complaints about the Commissioner or Deputy Commissioner. In 2018-19 we received five complaints, all of which were dealt with by or on behalf of the monitoring officer after consulting the Chairman of the Panel.
- 4.5 At present there is no report made to the Panel on how the complaints process is working.

5. Review of the process

- 5.1 The procedure has been reviewed and a new draft prepared. The changes are minor. The changes take account of changes to the title of the Commissioner and the Panel and a few typographical errors have been corrected. A new paragraph 3.3 has been inserted to make it clear that although most of the policy only refers to the Commissioner, it is equally applicable to the Deputy.
- 5.2 The revised draft is at appendix 1, including a flowchart showing how the process works.