

AGENDA ITEM 7

Essex Police and Crime Panel	EPCP/05/13
Date: 26 March 2013	

Handling complaints about the Police and Crime Commissioner and their Deputy

Report by Secretary to the Panel

Enquiries to Colin Ismay 01245 430396 colin.ismay@essex.gov.uk

Purpose of report

To consider the arrangements needed to fulfill the Panel's requirement to have in place a procedure for handling complaints against the Commissioner and his Deputy as required by the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012. The report sets out what will be required of the Panel in terms of handling complaints; the various issues that need to be considered in order that decisions can be made about arrangements for managing complaints; and suggests a complaints process for members.

The Regulations

Under the Regulations the Independent Police Complaints Commission (IPCC) has the function in relation to office holders and police and crime panels to secure the maintenance of suitable arrangements with respect to the handling of complaints, the recording of conduct matters and the manner in which any serious complaints and conduct matters are investigated or otherwise handled and dealt with. The Regulations and accompanying guidance set out how Police and Crime Panels should consider complaints against Police and Crime Commissioners, and their Deputies.

Complaints in Policing and Local Government

The manner in which complaints are dealt with is governed by a significant amount of legislation in policing: it is a highly prescribed, technical area. However, at the same time, the aim of the complaints system is to deliver resolution as quickly and effectively as possible for the majority of complainants through local resolution.

It is also quite a different arrangement to the manner in which complaints against elected members of local authorities are handled. It should be noted that since the introduction of the Localism Act, which has simplified and localised the system in local government, this disparity is even more evident. The 2012 ELPB Regulations are deliberately based upon

the Police Reform Act 2002 and the Police (Complaints and Misconduct) Regulations 2004 as opposed to any piece of Local Government legislation.

The introduction of a complaints system that is based on legislation relating to Police Forces, but to be administered by a local government committee, in relation to the holder of a newly-established directly-elected post has the potential to be problematic and confusing. This is true for both the public sector bodies involved and the general public. Therefore close working between the Panel and its administrators and the office of the Commissioner is vital, as is making the process as clear as possible, and accessible, to the public.

Complaints against the Commissioner: policies

In relation to developing policies for the handling of complaints the Panel will need to consider the following issues.

Would the Panel wish to delegate responsibility for initial handling to the Commissioner's Chief Executive/Monitoring Officer? There are several positive issues to consider, namely that the Commissioner's Office will have the experience to do this. It should also be noted that the suggestion from Government is that this should take place. However, there is the issue of negative public perception- how would it look to the general public if the Commissioner's own Chief Executive were recording complaints against their 'boss'? However, an organisation recording complaints against itself is in fact the norm in both local government and in the Police. If the Chief Executive were to register and formally record complaints, what procedures would the Panel want to put in place to meet its statutory responsibilities and ensure public confidence?

The Panel is required, under section 34 of the Regulations, to keep a record of everything that is, and is purported to be, a complaint about the conduct of the Deputy or Commissioner. However, if the Chief Executive of the Commissioner's Office will receive all of the complaints, and the Panel has the power to delegate all functions (except the resolution of complaints), it may be a practical measure to delegate this function to the Chief Executive as well. In that instance, the Panel may, for example, wish for a monthly record of all complaints relating to conduct, or at some other agreed frequency; it may wish to dip sample all records to see which ones were not being recorded or being disappplied, and why; or some other arrangement to be decided upon.

If this were the case a policy would be drawn up for handling complaints by the Commissioner's Office.

In relation to a suggested procedure for the Panel to follow, members may wish to consider the following issues.

How does the Panel wish to organise and administer locally resolving complaints?

- It can be the responsibility of the panel itself;
- It can be the responsibility of a sub-committee of the panel, which could take its own decisions or recommend to the main panel;
- It can be the responsibility of one member of the panel (or several members) who could take their own decisions or make recommendations to the panel; however, there is

potential conflict with section 101 of LGA 1972 which prohibits a local authority committee from delegating to a single member.

- It can be the responsibility of an officer.

The complaint can also be referred 'up' or 'down' from the sub-committee to the Full Panel and vice versa, as appropriate.

A sub-committee of the panel may be the best approach. This is on the grounds that if the full panel were involved, this would delay matters significantly, which would be in opposition to the spirit of local resolution. A sub-committee carrying out the consideration of complaints against members or senior officers is also the norm in local authorities and the Police.

Local resolution

The legislation only provides for the Panel to locally resolve a complaint, and specifically rules out any 'investigation' of a complaint. Whilst this was not previously used in local government, many local authorities are adopting streamlined processes which can involve informal resolution without investigation, but it remains a relatively new approach. Local resolution has been used as a central tenet of the Police Complaints process for a significant amount of time.

Local resolution provides a prompt, effective method of resolving a complaint, which satisfies the individual and ensures that the behaviour (either on an individual or organisational level) is not repeated. There is no prescribed method, as each case is taken on its merits. It is proven that this method - as opposed to becoming involved in the 'full' complaints process - is more likely to lead to a satisfactory resolution for all parties.

Whilst there is no set process, the Independent Police Complaints Commission suggests that local resolution could include:

- immediate resolution by providing information face-to-face or by telephone
 - a letter explaining what has been done
 - communication between the individual and the person the complaint was about
 - a meeting with the person working on the complaint and/or the person the complaint was about (but only if this is agreed by all parties).
- and that the result could be to:
- give the individual information or an explanation to clear up a misunderstanding
 - learn from the complaint, accepting that something could have been handled better and explaining what has been done to stop the same thing happening again
 - arrange action by a manager to change the way the person behaves
 - apologise on behalf of the person the complaint was about, but only if they agree to this.
 - provide training, advice or other support to the person complained about.

However, this is not a definitive list, and some of the methods (such as immediate resolution) are more suited to complaints made in person at a Police Station, as opposed to ones made against the Commissioner.

Serious complaints

The definition of a serious complaint is one where an allegation is made of conduct which constitutes a criminal offence. These complaints have to be referred to the IPPC. Unusually, there is no process of appeal.

Decisions to be taken by the Panel

The Panel is requested to make the following decisions

Does the Panel wish to delegate responsibility for initial registration, assessment, recording, and disapplication (where applicable) of complaints to the Commissioner's Executive/Monitoring Officer?

Does the Panel wish to establish a sub-committee to deal with complaints where local resolution by the PCP is appropriate?

Draft policies will be drawn up and circulated as a result of these decisions and it is suggested that based on comments received the Chairman and Vice-Chairman be authorised to confirm the policies.