

## **AGENDA ITEM**

### **REPORT TO CLEVELAND POLICE AND CRIME PANEL**

**4 FEBRUARY 2016**

### **REPORT OF MONITORING OFFICER**

## **COMPLAINTS PROCEDURE**

### **SUMMARY**

This report asks the Panel to consider two matters. Firstly a proposed change to the handling of complaints about the conduct of the Police and Crime Commissioner ("PCC"). Secondly the Home Office's consultation on proposals to change the way complaints against PCCs are managed.

### **RECOMMENDATION**

It is recommended that the Panel:-

1. Considers the suggestion that the Panel's complaints procedure refers to the Monitoring Officer, instead of the Director of Law and Democracy, as the Officer responsible for receiving complaints about the PCC's conduct; and
2. Subject to this being agreed, that the necessary changes are made, as required, to the documentation relating to the complaints procedure and that the Panel,
3. Determines whether any other amendments or additions to the complaints arrangements should be considered;
4. Considers the Home Office consultation paper and provides its views regarding the changes proposed to PCP complaints procedures and the related consultation questions; and that subject to this,
5. Officers prepare a response to the consultation in consultation with the Chair and Vice Chair of the Panel, and that the agreed response is submitted to the Home Office prior to the deadline of the 10 March 2016.

### **DETAIL**

#### **The Panel's Complaints Procedure**

1. As a result of previous reports to the Panel (26 June and 21 October 2014), it was agreed that Stockton-on-Tees Borough Council's Director of Law and Democracy should act on the Panel's behalf in receiving complaints, and that a sub-committee of Panel Members should be established to try to reach informal resolution of complaints.
2. However, as a result of recent review of Stockton's management and operational services structures, the position of Director of Law and Democracy has been replaced. The former Director remains the Council's Monitoring Officer with responsibility for dealing with complaints about Members conduct, and complaints submitted to the Local Government Ombudsman regarding the exercise of the Council's functions, and is also the Council's Proper Officer.

3. It is suggested, therefore, that the Panel's complaint procedure refers to the Monitoring Officer, rather than the Director of Law and Democracy, as the Officer responsible for receiving complaints about the PCC's conduct.
4. If the Panel agrees with this change, the documentation regarding the complaints procedure will, where required, be revised accordingly.
5. No further changes to the procedure are proposed in this context, but if the Panel considers that there are other amendments or additions to the arrangements that would be beneficial then they can be considered and a report can be brought back to a future Panel meeting.

### **The Home Office Consultation**

6. In December 2015 the Home Office published a consultation paper regarding potential changes to the system for non-serious (ie non-criminal) complaints about PCCs which are referred to and handled by Police and Crime Panels ("PCPs").
7. A copy of the consultation paper is attached at **Appendix 1**. The consultation closes on the 10 March 2016.
8. The proposed changes to the complaints system are as follows:-

- (i) Further guidance will be provided by the Home Office to PCPs on what constitutes a complaint. This will supplement the regulations and will help to ensure Complaints about a PCCs conduct rather than policy decisions are taken forward.

Consideration is also to be given whether any measures to make it easier for forces and PCCs to handle vexatious complaints should be extended to PCPs, so as to give PCPs greater flexibility to manage these complaints and to ensure a consistent policy across complaints systems.

- (ii) Amendments will be made to the Police Reform and Social Responsibility Act 2011 and the Elected Local Bodies (Complaints and Misconduct) Regulations 2012 to remove the restriction on PCPs ability to investigate complaints, and to allow for investigation through the appointment by the PCP of an independent individual to gather evidence relating to a complaint, and the conduct of the PCC, and to present a recommendation report to the PCP.

The Government's view is that informed resolution should still be appropriate for most complaints, and the independent person could be the PCC's Chief Executive/Monitoring Officer or one of the relevant Local Authorities' Monitoring Officers.

The Government also proposes to introduce non-statutory guidance clarifying that informal resolution is not reliant on the agreement of both parties, though this should remain the preferred outcome.

The guidance will, in addition, reinforce that PCPs have a power to make recommendations in connection with complaints and may require a PCC to respond in writing to any recommendations made. The guidance will make it clear that such recommendations should be based on the PCC's conduct and aimed at preventing future complaints from arising.

Making recommendations, rather than imposing sanctions, is considered to be the more appropriate power for PCPs, in the Government's view, as the accountability of the PCC lies with the public, and not with the PCP.

9. The consultation paper includes a number of consultation questions regarding each of the three main consultation issues (complaint definition and guidance; investigation; and informal resolution guidance).
10. The Panel is asked to consider the changes proposed in the consultation paper and the related questions.

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