

AGENDA ITEM

**REPORT TO CLEVELAND POLICE AND
CRIME PANEL**

26 JUNE 2014

**REPORT OF DIRECTOR OF
LAW AND DEMOCRACY**

COMPLAINTS PROCEDURE REVIEW

SUMMARY

This report reviews the current arrangements for dealing with complaints about the Cleveland Police and Crime Commissioner ("the Commissioner") and seeks the Panel's views regarding future arrangements.

RECOMMENDATIONS

It is recommended that:-

1. The current arrangements for handling complaints about the Commissioner are posted on dedicated pages of Stockton Council's website and that links to those pages are included on the websites of the other Councils in the Cleveland Force area.
2. Information and documentation regarding complaints eg a complaint form and timescales for dealing with Complaints, is brought to a future meeting for consideration, and subject to approval is then made available and included on Stockton's website.
3. The Panel considers if full Panel meetings are still the most appropriate means of considering complaints, or whether other options (eg such as a standing sub-committee/panel) should be considered at a future Panel meeting.
4. Further reviews of the Panel's complaint handling arrangements take place regularly, with the next review being undertaken during 2015/16.
5. A policy regarding the unreasonable behaviour of complainants is drafted for consideration at a future Panel meeting.
6. The Panel considers whether there are methods of securing the informal resolution of complaints which have not been employed by the Panel to date and which should be considered in the future, as and when appropriate.
7. The Panel be kept informed of progress regarding any research undertaken by the Local Government Association in relation to police and crime panels' experience of complaint handling.

DETAIL

Background

1. Police and Crime Panels have statutory responsibilities regarding complaints about the conduct of Police and Crime Commissioners under the Police Reform Act 2002; the Police Reform and Social Responsibility Act 2011; and the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012.
2. The Cleveland Police and Crime Panel (“the Panel”) agreed the arrangements for the handling of complaints against the Commissioner at its meeting on 6 August 2012. A copy of the arrangements is attached at **Appendix 1** to this report.
3. Although Stockton’s Director of Law and Democracy is the principal contact for complaints and the person to whom complaints are initially directed, the Panel has reserved to itself all other responsibilities regarding the handling of complaints (such as recording complaints, referring serious complaints to the Independent Police Complaints Commission, and informally resolving complaints).
4. The Panel’s forward plan reflects the commitment to review the operation of the complaints arrangements after a period of 12 months.
5. To date three complaints have been received and determined under the Panel’s current arrangements.
6. This report reviews those arrangements and seeks the Panel’s views regarding future arrangements, taking into account the experience gained in dealing with the complaints referred to.

Complaints Determined

7. As indicated three complaints have been determined by the Panel so far. These are as follows:-

CPCP1

8. The Panel considered that the complaint related to the Commissioner’s decision regarding the appointment of a Chief Executive Officer, but did not consider it to be a serious complaint or conduct matter that should be referred to the Independent Police Complaints Commission.
9. The Panel noted that consideration of the Commissioner’s decisions had taken place earlier at the same Panel meeting, and that a confirmation hearing would follow which related to the appointment of a Chief Executive Officer. At the conclusion of that hearing, the Panel agreed that the complaint could reasonably be regarded as having been dealt with and as having been concluded.

CPCP2

10. The complaint concerned a meeting held in November 2012, the dismissal of the former Chief Executive of Cleveland Police Authority and the appointment of a new Chief Executive Officer by the Commissioner.
11. The Panel considered that neither of the matters should be referred to the Independent Police Complaints Commission, either as serious complaints or voluntarily and that the Commissioner and Complainant should be invited to a future Panel meeting in order to provide relevant information or documents and/or answer relevant questions or give evidence.

12. The Commissioner and Complainant were invited to a Panel meeting in order to try to secure an information resolution of the complaint, but the Complainant indicated that he would not be attending the meeting. The Panel expressed its disappointment regarding this decision and asked that the Complainant confirm within one month if we would be willing to engage with the Panel, and in particular to attend a future meeting. The Complainant, however refused to attend such a meeting. In view of this, the Panel determined that no further action would be taken regarding the matter.

CPCP3

13. The complaint related to the Commissioner's late registration as a data controller with the Information Commissioner's Office. The Independent Police Complaints Commission had already determined that it was not necessary for it to investigate the matter, and the Information Commissioner's Office had indicated that given the relatively short period before the Commissioner addressed his notification obligation, and the continuity provisions in the Police Reform and Social Responsibility Act, the Information Commissioner was unlikely to consider it to be in the public interest to pursue a prosecution of the Commissioner.
14. The Panel considered that in view of this and the circumstances generally, the matter had in reality been resolved and that no further action should be taken.

Complaints Procedures

15. The Local Government Ombudsman provides guidance on the principles of effective complaint handling and the features of an effective complaints procedure.
16. Details of those principles and key features are attached at **Appendix 2** to the report.
17. Some if not all are of relevance to the arrangements for the handling of complaints about the Commissioner.
18. Dealing with each of the principles/features in turn, the Panel is asked to consider the following:

Accessibility

19. The current arrangements are accessible via e-genda in the form of the relevant report and minutes of the Panel. They are not, however, otherwise apparent.
20. The arrangements could be made accessible in a dedicated part of Stockton's website, and made available via links on the other Authorities' sites.
21. In addition, there is currently no complaint form, or details of how to submit a complaint, and who to submit it to, nor any indication of what will happen once a complaint has been submitted.
22. This information would make the arrangements more user friendly and transparent.

Communication

23. No comments or concerns have been raised to date regarding communications with Complainants and with the Commissioner's Office, or with others who may be involved in complaints, such as the other Local Authorities.

24. There is early and ongoing contact in this context through Stockton's Law and Democracy Office.
25. This seems to be effective.

Timelines

26. Two of the three complaints determined by the Panel to date were not "resolved" in 12 weeks. The reasons why they took longer to reach determination concerned the Complainants' unwillingness to engage with the Panel process in one case, and the time taken to refer the matter to the Panel in the second case. The length of time involved in dealing with each case did not arise specifically from the Panel's arrangements.
27. However, at present all complaints are referred to full Panel meetings. The Panel's meetings are scheduled for every 3 to 4 months, although special meetings can always be arranged if necessary.
28. The Panel is therefore asked to consider if full Panel meetings are still the most appropriate way of considering all complaints. Some Police and Crime Panels have, for instance, delegated responsibility for attempting to informally resolve complaints to a sub-committee. There would be a caveat to this, that a complaint could be submitted to the full Panel where this was considered appropriate eg because it would lead to a more satisfactory resolution of the matter in the particular circumstances of the case.
29. Also, there are no timescales agreed and publicised for each stage of the complaints handling process. It is recommended that such details are included on Stockton's website, along with the other information suggested.

Fairness

30. Subject to the outcomes of this review, and any changes to the arrangements which may arise as a result, the arrangements are clear about the roles and responsibilities for complaints handling. Complainants are also given every opportunity to submit their views about their complaints and to provide all relevant information relating to them.

Credibility

31. The responsibilities for handling and dealing with complaints rest with the Panel, demonstrating the importance of the process. The Director of Law and Democracy is the named contact for complaints and takes the lead role in considering and reporting them to the Panel.

Accountability

32. This is the first review of the arrangements, and it is suggested that further reviews take place periodically, so that any necessary or appropriate changes to the procedure can be considered and agreed by the Panel.
33. It is a little early in the life of Police and Crime Panels for any national review to have been undertaken of Panels' complaints handling. The Centre for Public Scrutiny's report "Police and Crime Panels: the first year" refers briefly to the complaints

handling duty of Panels, but there are no case studies or details of problems encountered or lessons learned.

34. It is suggested therefore that the Panel should review its complaint handling arrangements again during the third year of the Panel's operation when there will have been more time and opportunity for reflection on best practice to have occurred, either regionally or nationally.

Complainants

35. The Local Government Ombudsman also advises that a policy that can be shared with complainants if they start to behave unreasonably can assist in managing their expectations and their behaviour, as far as possible, while the substance of their complaint is addressed.
36. The Ombudsman indicates that single incidents may be unacceptable, but more often the difficulty is caused by unreasonably persistent behaviour that is time consuming to manage and interferes with the proper consideration of the complaint.
37. Some of the actions and behaviours which may be problematic are:-
 - refusing to co-operate with the complaints process.
 - refusing to accept that certain issues are not within the scope of the complaints procedure.
 - insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
 - raising numerous, detailed but unimportant questions; insisting on them all being answered.
 - refusing to accept the decision; repeatedly arguing points with no new evidence.
38. Some Police and Crime Panels have adopted such a policy (the approach to be taken in the event of a complainant behaving unreasonably). It is recommended that a policy is drafted and brought back to the Panel for consideration. The experience of handling the complaints considered to date would support this approach.

Powers

39. There are no legal powers to apply any formal sanctions, even if a complaint is upheld, other than to record and/or publish that decision and make comment or provide an opinion on the conduct of the office holder concerned.
40. The Panel is empowered to secure an informal resolution of a complaint. This is not defined or detailed in any way, save to say that:-
 - the complaint cannot be investigated, but the Commissioner may be requested to provide relevant information or documents or to answer questions or give evidence;
 - the Complainant and the Commissioner must be given an opportunity to comment on the matter;
 - if the Commissioner chooses not to comment on the matter, that fact must be recorded in writing;

- no apology for the conduct complained of must be given in order to informally resolve the complaint, unless the conduct has been admitted and an apology has been agreed to;
 - a record of the outcome of the information resolution procedure must be made and a copy sent to the Complainant and to the Commissioner.
 - the record must not be published unless the Complainant and the Commissioner have been given the opportunity to make representations in relation to the proposed publication, and it is considered that having considered such representations publication is in the public interest.
41. The means of achieving an informal resolution are therefore limited, and achieving an informal resolution which is satisfactory to the complainant is always likely to be extremely difficult.
42. The question however, is whether there are ways of seeking informal resolution which have not been tried so far and which should be considered in the future.
43. The Panel's views would be appreciated in this respect.

Home Affairs Select Committee

44. In the meantime, the Parliamentary Home Affairs Select Committee has been undertaking a review of Police and Crime Commissioner: Progress to date. Details of some of the evidence taken by the Committee is attached at **Appendix 3**. This evidence substantiates some of the comments made in this report to the Panel. Also attached at the Appendix is an extract from the Select Committee's Report. At paragraph 93, the Select Committee recommended that the Local Government Association undertake in-depth research on panels' experience to date on complaint handling, so that it can make recommendations to the Home Office on how the process should be improved.
45. The Panel will be kept informed of progress in this respect should the Local Government Association undertake such research.

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