

Cleveland Police and Crime Panel

Arrangements for the handling of Complaints and other matters

Introduction

1. These arrangements concern the handling of complaints and other matters by the Cleveland Police and Crime Panel (“the Panel”) regarding the conduct of the Cleveland Police and Crime Commissioner (the Commissioner”) and any deputy Police and Crime Commissioner (“the deputy Commissioner”) appointed by the Commissioner, in accordance with the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 (“the regulations”).
2. The Commissioner and any deputy Commissioner are referred to individually and jointly in these arrangements as “relevant officer holder”.
3. In these arrangements:-
 - “complaint” means a complaint about the conduct of a relevant officer holder;
 - “conduct matter” means a matter in the case of which there is an indication (whether from the circumstances or otherwise) that a relevant officer holder may have committed a criminal offence;
 - “conduct” includes acts, omissions, statements and decisions (whether actual, alleged or inferred);
 - “criminal offence” means any offence triable in England and Wales;
 - “serious complaint” means a complaint made about conduct which constitutes or involves, or appears to constitute or involve the commission of a criminal offence.

Guidance

4. The Panel will have regard to any guidance issued by the Secretary of State or the Independent Police Complaints Commission (“the Commission”) under Section 22 of the Police Reform Act 2002 as modified by the regulations.

Reports

5. The Panel will receive and consider copies of any reports received from the Commission which the Commission has made to the Secretary of State under the regulations.

General Duties

6. The Panel will be kept informed in relation to a relevant officer holder, about:-
 - all matters with respect to which any provision of the regulations has effect;
 - anything which is done under or for the purposes of any such provision; and
 - any obligations to act or refrain from acting that have arisen under the regulations, but which have not yet been complied with or have been contravened.

7. The Panel will ensure that the Commission, and every member of the Commission's staff, is provided with all such assistance as the Commission or the member of staff may reasonably require for the purposes of, or in connection with, the carrying out of any investigation by the Commission itself under the regulations.
8. The Panel will also ensure that any person appointed by the Commission to conduct an investigation under its management, in accordance with the regulations, is given all such assistance and co-operation in the carrying out of the investigation as that person may reasonably require.

Preserving evidence

9. The Panel will secure that all steps as are appropriate for the purposes of the regulations are taken at all times for obtaining and preserving evidence relating to a complaint or conduct matter.
10. In that respect, the Panel will comply with all such directions as may be given to it by the Commission for that purpose.
11. The Panel may also direct a relevant office holder to take such steps as it may require for obtaining or preserving evidence in relation to a complaint or conduct matter.

Notification and recording of complaints and conduct matters

12. The Panel will receive notification from the Commission, the chief officer of police or a relevant office holder, of any complaint made to any of them that relates to the conduct of a relevant office holder.
13. The Panel will determine if it is the relevant police and crime panel in relation to that relevant officer holder, and if it determines that it is not, it will give notification of the complaint to the panel that is.
14. Where the Panel is notified of a complaint or it has determined that it is the correct police and crime panel in relation to a complaint, the Panel will record the complaint.
15. A complaint will not need to be recorded or notified if the Panel is satisfied that the subject matter of the complaint has been, or is already being dealt with by means of criminal proceedings against the relevant office holder, or the complaint has been withdrawn pursuant to the regulations.
16. If the Panel decides not to give notification of, or record the whole or part of a complaint, the Panel will notify the complainant of that decision (and if that decision relates to any part of the complaint, the part in question), and the grounds on which the decision was made.
17. Where notification has been received that civil proceedings relating to any matter have been brought by a member of the public against a relevant office holder, or where it appears to the Panel that such proceedings are likely to be brought; and it appears to the Panel that those proceedings involve, or would involve a conduct matter, the Panel will:-

- (a) consider if it is the police and crime panel for the relevant office holder and if it decides it is not, it will notify the relevant panel about the proceedings, or the proposal to bring them, and about the circumstances that make it appear that a conduct matter is or will be involved; or
 - (b) if the Panel is the relevant police and crime panel, it will record the matter concerned.
18. The Panel will not need to record such a matter if it is satisfied that the matter has already been recorded as a complaint by the Panel, or the matter has been, or is already being dealt with by means of criminal proceedings against the person to whose conduct the matter relates.
19. Where any other conduct matter comes to the Panel's attention, the Panel will record it unless it is satisfied as specified in the preceding paragraph.

Referral of serious complaints and conduct matters.

20. The Panel will refer a complaint to the Commission if the Panel determines that it is a serious complaint, or where the Panel is notified by the Commission that it requires the complaint to be referred to it.
21. The Panel will refer a conduct matter to the Commission if the Panel has recorded the matter under paragraphs 14, 17, 19 and 36 or if the Commission notifies the Panel it requires such a matter to be referred to it.
22. If the Panel is required to refer a complaint or a conduct matter to the Commission under the preceding paragraphs, the Panel will give notification of that complaint or conduct matter to the Commission as soon as is practicable, and in any event not later than the end of the day following the day on which it first becomes clear to the Panel that the complaint or conduct matter is one to which paragraph 20 applies, and in such manner as the Commission specifies.
23. The Panel will give notification to the Commission of any complaint or conduct matter which the Commission has notified the Panel it requires the Panel to refer to it for consideration.
24. The notification will be given as soon as is practicable and in any event not later than the end of the day following the day on which the Commission notifies the Panel that the complaint or conduct matter is to be referred to it, and in such manner as the Commission specifies.
25. The Panel will give notification of any referral to the Commission to the complainant (if there is one) and, except where the Panel considers that to do so might prejudice a possible future investigation of the relevant matter, to the person whose conduct the complaint or matter refers.

Duties of Commission on a referral

26. If the Commission receives a referral of a complaint or conduct matter from the Panel, and it determines it is not necessary for the complaint or matter to be investigated, it will refer the complaint back to the Panel to be dealt with in accordance with paragraphs 42 to 54 inclusively and in the case of a conduct matter, to be dealt with by the Panel as it may determine.

Handling of Complaints

27. Complaints recorded by the Panel and which have not, or do not need to be referred to Commission, and are not for the time being referred back to the Panel by the Commission, can be dealt with by the Panel as follows:-
- (a) the Panel can decide to handle the complaint otherwise than in accordance with paragraphs 42 to 54; or
 - (b) the Panel can decide to take no action;
28. Where either is the case, the Panel can handle the complaint in whatever manner it sees fit provided the Panel considers that:-
- (a) the complaint is concerned entirely with the conduct of a relevant office holder in relation to a person who was working in his capacity as a member of the relevant office holder's staff at the time when the conduct is suppose to have taken place.
 - (b) more than 12 months have elapsed between the incident, or the latest incident, giving rise to the complaint and the making of the complaint and either:-
 - (i) no good reason for the delay has been shown, or
 - (ii) injustice would be likely to be caused by the delay;
 - (c) the matter is already the subject of a complaint;
 - (d) the complaint discloses neither the name and address of the complainant nor that of any other interested person and it is not reasonably practicable to ascertain such a name or address;
 - (e) the complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints;
 - (f) the complaint is repetitious.
29. A complaint is repetitious for the purposes of the preceding paragraph if, and only if:-
- (a) it is substantially the same as a previous complaint (whether made by or on behalf of the same or a different complainant), or it concerns substantially the same conduct as a previous conduct matter;
 - (b) it contains no fresh allegations which significantly affect the account of the conduct complained of;
 - (c) no fresh evidence, being evidence which was not reasonably available at the time the previous complaint was made, is tendered in support of it; and
 - (d) as regards the previous complaint or conduct matter, either:-
 - (i) the commission took action in response to an investigation report as required by the regulations;
 - (ii) the complaint was resolved in accordance with paragraphs 42 to 54 inclusively;
 - (iii) the complainant gave such notification that he withdrew the complaint as it mentioned in paragraph 31; or
 - (iv) the Panel decided to handle the complaint in whatever way it saw fit, in accordance with this paragraph.
30. The Panel will notify the complainant that it has decided to handle the complaint as permitted by paragraphs 27 and 28.

Withdrawn and discontinued complaints

31. If the Panel receives notification from a complainant in writing signed by him, or by his solicitor or other authorised agent on his behalf, to the effect either:-

- (a) that he withdraws the complaint, or
- (b) that he does not wish any further steps to be taken in consequence of the complaint

then the Panel will forthwith record the withdrawal or the fact that the complainant does not wish any further steps to be taken, as the case maybe, and subject to the following paragraphs 32 to 40 inclusively, the regulations will cease to apply to the complaint.

32. Where a complainant gives such a notification to the Commission but, so far as is apparent to the Commission, he has not sent that notification to the Panel, then:-

- (a) the commission will send a copy of that notification to the Panel;
- (b) that Panel will record the withdrawal or the fact that the complainant does not wish any further steps to be taken, as the case may be; and
- (c) subject to the following paragraphs 33 to 40 inclusively, the provisions of the regulations will cease to apply in respect of that complaint.

33. Where a complainant gives such a notification to the Panel, or where the Panel receives a copy of a notification under the preceding paragraph, and it relates to a complaint which was referred to the Commission and which has not been referred back to the Panel, then the Panel will notify the Commission that it has recorded the withdrawal of the complaint or the fact that the complainant does not wish any further steps to be taken, as the case may be.

34. Where a complainant gives such a notification to a Panel, or where the Panel receives a copy of a notification under paragraph 32, and that notification relates to a complaint which does not fall within the preceding paragraph, then the Panel will determine whether the complaint is one made about conduct which constitutes or involves, or appears to constitute or involve, the commission of a criminal offence and should therefore be treated as a conduct matter.

35. In a case falling within paragraph 33, the Commission will determine whether it is in the public interest for the complaint to be treated as a conduct matter and the relevant provisions of the regulations will apply to it accordingly.

36. Where a determination is made that a complaint is to be treated as a conduct matter, then it will be recorded by the Panel as a conduct matter and the relevant provisions of the regulations will apply to it accordingly.

37. Where a complainant indicates that he wishes to withdraw the complaint or that he does not wish any further steps to be taken in consequence of the complaint, but he fails to provide a notification to that effect in writing signed by him or on his behalf, then:-

- (a) in the case of an indication received by the Panel, the Panel will take the steps set out in the following paragraph;

- (b) in the case of an indication received by the Commission, the Commission will refer the matter to the Panel which will then take the steps set out in the following paragraph
38. Those steps referred to in the preceding paragraph are:-
- (a) the Panel will write to the complainant to ascertain whether he wishes to withdraw his complaint or does not wish any further steps to be taken in consequence of the complaint;
 - (b) if the complainant indicates that he wishes to withdraw his complaint or does not wish any further steps to be taken in consequence of the complaint, or if he fails to reply within 21 days, the Panel will treat the indication as though it had been received in writing signed by the complainant;
 - (c) if the complainant indicates that he does not wish to withdraw his complaint, or that he does wish further steps to be taken in consequence of the complaint, the Panel will continue to handle the complaint in accordance with the regulations.
39. The Panel will notify the person complained against if:-
- (a) it records the withdrawal of a complaint or the fact that the complainant does not wish any further steps to be taken;
 - (b) it determines that a complaint should be treated as a conduct matter;
 - (c) the Commission determines that a complaint should be treated as a conduct matter;
 - (d) the provisions of the regulations cease to apply in respect of a complaint.
40. Nothing in the preceding paragraph will require the Panel to make a notification if it has previously decided under paragraph 65 not to notify the person complained against of the complaint because it is of the opinion that that might prejudice any criminal investigation or pending proceedings or would be contrary to the public interest.

Conduct occurring outside England and Wales

41. (a) The Panel will receive notification from a relevant office holder of any allegation, investigation or proceedings in relation to that person's conduct which does not amount to a conduct matter for the purposes of the regulations only by reason of the fact that the conduct in question did not occur in England and Wales.
- (b) Where the Panel receives a notification under the preceding subparagraph it will handle the matter in whatever manner (if any) that it thinks fit.

Resolution of Other Complaints

42. A complaint which has been recorded by the Panel will be dealt with in accordance with the following paragraphs, unless it is one which has been, or must be referred to the Commission, and if for the time being not referred back to the Panel, or is a complaint which the Panel has decided to handle in accordance with paragraphs 27 to 30 inclusively.

43. If a complaint concerns the conduct of the Commissioner or any deputy Commissioner appointed by the Commissioner, the Panel will make arrangements for the complaint to be subjected to informal resolution.
44. The informal resolution of any complaint will be discontinued if:-
 - (a) the Commission notifies the Panel that it requires the complaint to be referred to the Commission under the regulations; or
 - (b) the complaint is so referred otherwise than in pursuance of such a notification.
45. The arrangements made by the Panel for subjecting a complaint to informal resolution may include the appointment of a sub-committee or a single member of the Panel, or a person who is not a member of the Panel or a relevant office holder, to secure the informal resolution of the complaint, and any reference to the Panel in paragraphs 47 to 54 inclusively, should be read as a reference to the sub-committee or person so appointed.
46. In a case where a sub-committee or person is appointed under the preceding paragraph, the arrangements made by the Panel may include arrangements for the complaint to be remitted at any time to the Panel as a whole (whether at the request of the appointed sub-committee or person, the complainant or the person complained against, or otherwise) if the Panel is of the opinion that this will lead to a more satisfactory resolution of the complaint.
47. The Panel will take account of any procedures for dealing with a complaint which is to be subjected to informal resolution and which are specified in guidance issued by the Secretary of State.
48. Where it appears to the Panel that a complaint has in fact already been satisfactorily dealt with at the time it is brought to its notice:-
 - (a) the Panel may, subject to any representation by the complainant, treat it as having been resolved, and
 - (b) if the Panel does so, the following paragraphs will not apply to it
49. The Panel will as soon as practicable give the complainant and the person complained against an opportunity to comment on the complaint.
50. Where the person complained against chooses not to comment on the complaint, the Panel will record this fact in writing.
51. The Panel will not, for the purposes of informally resolving a complaint, tender on behalf of the person complained against an apology for his conduct unless the person complained against has admitted the conduct in question and has agreed to the apology.
52. Where a complaint has been subjected to informal resolution, the Panel will as soon as practicable make a record of the outcome of the procedure and send a copy of that record to the complainant and the person complained against.

53. The Panel will not publish any part of any such record unless the Panel:-
- (a) has given the complainant and the person complained against the opportunity to make representations in relation to the proposed publication; and
 - (b) having considered any such representations, is of the opinion that publication is in the public interest.
54. A statement made by any person for the purposes of the informal resolution of any complaint will not be admissible in any subsequent criminal or civil proceedings except to the extent that it consists of an admission relating to a matter that has not been subjected to informal resolution.

Serious Complaints and Conduct Matters

55. Where the Commission makes an order of discontinuance regarding a complaint being investigated under its management, or discontinues an investigation being carried out by the Commission itself, the Panel will receive notification of that discontinuance.
56. Where an investigation of a complaint or conduct matter is discontinued in this way, the Panel will receive and comply with any directions which the Commission may give about the complaint or conduct matter.
57. Subject to this, the Panel will not take any further action under these regulations in relation to that complaint or matter.
58. A direction under the preceding paragraph may:-
- (a) where the investigation concerned a complaint, require the Panel to disapply the requirements of the regulations as regards the complaint;
 - (b) require the Panel to handle the complaint in accordance with paragraphs 42 to 54 inclusively;
 - (c) direct the Panel to handle the matter in whatever manner (if any) the Panel thinks fit.
59. The Panel will receive notifications from the Commission:-
- Of the Commission's determination whether a report or an investigation carried out under its management or by a person designated by it, indicates that a criminal offence may have been committed by a relevant office holder, and whether the circumstances are such that in the Commission's opinion it is appropriate for the matters in the report to be considered by the Director of Public Prosecutions ("the DPP"), and if so that the DPP has been notified of the determination and been sent a copy of the report;
 - If criminal proceedings are brought against any person by the DPP in respect of any matters dealt with in a report copied to him by the Commission.
60. The Panel will also receive a copy of any report referred to in the preceding paragraph.

Provision and recording of information

61. The Panel will notify the Commissioner of the name and address of the Director of Law and Democracy, as the person to whom complaints should be directed.
62. The Panel will specify by what means the Commissioner must publish this information.
63. Where a complaint is recorded under paragraph 14, the Panel will:-
 - (a) supply to the complainant a copy of the record made of the complaint; and
 - (b) subject to paragraphs 64 to 66 inclusively, supply to the person complained against a copy of the complaint.
64. A copy of the complaint supplied under the preceding paragraph can be in a form which keeps anonymous the identity of the complainant or of any other person.
65. The Panel may decide not to supply a copy of a complaint if it is of the opinion that to do so:-
 - (a) might prejudice any criminal investigation or pending proceedings, or
 - (b) would otherwise be contrary to the public interest
66. Where the Panel decides not to supply a copy of a complaint, it will keep that decision under regular review.

Keeping of records

67. The Panel will keep records, in such form as the Commission determines, of:-
 - (a) every complaint and purported complaint that is made to it;
 - (b) every conduct matter recorded by it under paragraphs 17 to 19 inclusively;
 - (c) every exercise of a power or performance of a duty under the regulations.

Provision of information to the Commission

68. The Panel will:-
 - (a) provide the Commission with all such information and documents specified or described in a notification given by the Commission to the Panel, and
 - (b) produce or deliver up to the Commission all such evidence and other things so specified or described,

as appears to the Commission to be required by it for the purposes of the carrying out of any of its functions.

Access to premises on behalf of the Commission

69. Where:-

- (a) the Commission requires the Panel to allow a person nominated for the purpose by the Commission to have access to any premises occupied for the purposes of the functions the Panel, and to documents and other things on those premises, and
- (b) the requirement is imposed for any of the purposes mentioned in the following paragraph, the Panel will ensure that the required access is allowed to the nominated person.

70. The specified purposes are:-

- (a) the purposes of any examination by the Commission of the efficiency and effectiveness of the arrangements made in accordance with the regulations for handling complaints or dealing with conduct matters;
- (b) the purposes of any investigation carried out by the Commission or under its management in accordance with these regulations.