

**LEICESTER, LEICESTERSHIRE AND RUTLAND**  
**POLICE AND CRIME PANEL – 2<sup>nd</sup> DECEMBER 2021**

**REPORT OF THE CITY BARRISTER – LEICESTER CITY COUNCIL**

**REVISIONS TO THE CONSTITUTION OF THE LEICESTER, LEICESTERSHIRE**  
**& RUTLAND POLICE & CRIME PANEL**

**Purpose of Report**

1. The report recommends revisions to the Constitution following review of it by the Monitoring Officer in accordance with the duty under Part 3 paragraph 115 to do so once per year.

**Background**

2. Leicester City Council became the Host Authority for the administration of the Police & Crime Panel in May 2020. Pursuant to that change of status, the Monitoring Officer has undertaken a review of the provisions within the Constitution to consider whether any revisions are needed. Only one change is proposed:

**A. Allowance paid to Independent Members**

Paragraph 26 of the Constitution currently states:

*Payment of expenses and allowances, if applicable, for Elected Members will be a matter for the nominating Authority. A scheme of expenses and allowances for the two Independent Co-opted Members will be established by the Panel and administered by the host Authority.*

In the interests of certainty and transparency it is proposed that this should be amended as follows:

*Payment of expenses and allowances, if applicable, for Elected Members will be a matter for the nominating Authority. **The scheme of expenses and allowances for the two Independent Co-opted Members will mirror the provisions for such allowances that the contained within the host Authority's published Member Allowances Scheme, subject to a 50% uplift to reflect the greater frequency of meetings in the municipal year.***

By way of context:

- (i) Currently the Allowance for Independent Members of the Panel is £1000 p.a. It is not clear how this figure was reached, and it exceeds the £920 made available by the Home Office each year to fund the expenses of each panel Member.

- (ii) the Host Authority's Member Allowance Scheme contains provision for the payment of an allowance to Independent Members of £554. This is typically based upon four-meeting cycle per Municipal Year. The Police & Crime Panel convenes six scheduled meetings per year as standard, and more when necessary (e.g. where there are objections to the proposed Precept). Work programmes for PCPs tend also to be fulsome. A 50% uplift would take the allowance to £831 p.a.

## **B. Amendment to delegated powers to deal with complaints**

Part 4 of the Constitution deals with the handling of complaints against the PCC or the Deputy PCC. Following correspondence with the Independent Office for Police Complaints (IOPC) a technical error has been discovered in the delegations granted by the Panel when it comes to the referral "serious complaints" and "conduct matters" to the IOPC. These are two types of complaints which the Panel is mandated to refer to the IOPC. Previously, the power of referral was delegated to the Monitoring Officer on behalf of the Panel. Legally, any such delegation can only be to the Chief Executive of the OPCC, not the Monitoring Officer. The re-worded Part 4 amends the delegation to reflect this change. (*Note: it is respectfully submitted by the author that the proposed change is a simple procedural one, not a substantive one. Neither the Monitoring Officer nor the Chief Executive had, or will have, any power to deal with the complaint. The change simply remedies an error in defining the relevant person for passing the referral on to the IOPC*).

The redrafted Part 4 is attached with the proposed changes highlighted.

## **Recommendations**

The Panel is asked to consider the revisions proposed, and either agree, amend or reject them.

### **Officer to Contact:**

Kamal Adatia  
City Barrister & Head of Standards  
Monitoring Officer  
Leicester City Council

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# PART 4

## MAKING A COMPLAINT ABOUT THE POLICE & CRIME COMMISSIONER OR DEPUTY POLICE & CRIME COMMISSIONER

### **3. Making a Complaint about the Police and Crime Commissioner or Deputy Police and Crime Commissioner**

(Elected Local Policing Body (Complaints and Misconduct) Regulations 2012, Part 4)

#### **Introduction**

This section explains:

- how to complain about the Leicester, Leicestershire and Rutland Police and Crime Commissioner and/or Deputy PCC ('PCC/DPCC').
- what type of complaints the Leicester, Leicestershire and Rutland Police and Crime Panel ('the Panel') can consider.
- the process that will be followed in handling and resolving these complaints.

#### **Background**

On 20th December 2012, the Panel delegated authority to the Director of Law and Governance, Leicestershire County Council to:

- i. act as the first point of contact for complaints (and that the Chairman and Vice-Chairman of the Panel act as second or reserve points of contact);
- ii. make decisions, in consultation with the Chairman of the Panel if appropriate, as to whether:
  - (1) a complaint has been made which requires resolution under the complaint's procedures;
  - (2) that complaint should be referred to the Independent Office of Police Conduct (IOPC);
  - (3) the complaint should be subject to the informal resolution process; and
  - (4) to make arrangements for the process of informal resolution;
- iii. produce such further procedures, notes of guidance and forms as may be helpful to assist in the operation of the process and the provision of information to complainants;

At the same meeting the Panel delegated authority to the Director of Law and Governance, in consultation with the Chairman and Vice-Chairman, to:

- i. resolve complaints informally, or
- ii. arrange for a meeting of a sub-committee to be drawn from the full membership of the Police and Crime Panel, to resolve complaints informally.

At a further meeting on 2<sup>nd</sup> December 2021 the Panel amended the delegation at ii (2) in the light of legal advice, and delegated to the Chief Executive of the OPCC (rather than the Monitoring Officer) the power to refer relevant complaints to the IOPC

References to the Panel in this document include therefore the Director of Law and Governance acting on behalf of the Panel, or to the equivalent postholder in the relevant Host Authority from time to time.

## Objectives

The objectives of the complaints process are to:

- Handle complaints in a fair and independent way
- Deal with complaints as quickly and effectively as possible
- Keep all parties informed of progress until the complaint reaches a conclusion

## What complaints can the Panel look at?

The Panel is responsible for dealing with complaints about the conduct of the PCC/DPCC. This means the way things are done or not done, statements that are made and the way decisions are taken.

Any complaint comprising a “serious complaint” or “conduct matter” (as defined in the [Police Reform and Social Responsibility Act 2011](#)) will first be passed onto the Independent Office for Police Conduct (IOPC) for investigation. [The Police and Crime Panel hereby formally delegates the function of making a referral to the IOPC to the Chief Executive of the Office of the Police & Crime Commissioner \(OPCC\) in accordance with Regulation 7 of The Elected Local Policing Bodies \(Complaints and Misconduct\) Regulations 2012.](#)

Other non-criminal complaints are logged and then handled by the Panel, in accordance with the decisions and delegations referred to above [and in accordance with Regulation 28\(3\) The Elected Local Policing Bodies \(Complaints and Misconduct\) Regulations 2012](#), usually through a process of Informal Resolution.

## What the Panel is unable to do

There are certain complaints the Panel cannot consider because it does not have the legal power to do so. There are separate procedures for the following complaints:

- Complaints about operational policing matters
- Complaints about the Chief Constable
- Complaints relating to the administration of the Panel
- Complaints relating to the conduct of Members of the Panel.

If it is decided that your complaint should be directed to another body because it falls beyond the Panel’s remit, the Panel will explain why and offer to direct it to the appropriate body.

The Panel cannot consider complaints about the merits of a PCC/DPCC decision, for example where someone disagrees with a policy the PCC/DPCC has introduced.

It is important to note that the Panel has no power to investigate complaints in any way, although it may ask the PCC/DPCC to provide information or comment on the complaint.

## Submitting a complaint

Complaints should be sent in writing to:

Kamal Adatia  
City Barrister and Monitoring Officer  
Leicester City Council  
Leicester  
LE1 1FZ

Or by email to [Monitoring-Officer@leicester.gov.uk](mailto:Monitoring-Officer@leicester.gov.uk)

You can arrange for someone to act on your behalf, such as a friend or relative. However, you must provide written confirmation that you have given your consent before the Panel can discuss your case with them.

## **How the Panel will deal with your complaint (Elected Local Policing Body (Complaints and Misconduct) Regulations 2012, Reg 9 etc)**

### **Step 1 – Initial Assessment**

Your complaint will be checked to see that it is about the conduct of the Leicester, Leicestershire and Rutland PCC/DPCC.

If the complaint is about operational policing matters or the performance of the Leicestershire Police or any of its officers, you will be redirected to the Leicestershire Constabulary.

If the complaint is about the Chief Constable, it will be passed to the PCC.

### **Step 2 – Recording your Complaint**

If your complaint relates to the conduct of the PCC/DPCC it will be recorded, unless the matter has been or is currently being dealt with by criminal proceedings.

If it is decided not to record your complaint, the reason for this will be explained to you.

Where a complaint is recorded:

- a) You will be supplied with a copy of the record made of the complaint; and
- b) The PCC/DPCC will be supplied with a copy of the complaint.

A copy of a complaint supplied may be in a form which keeps anonymous your identity or the identity of any other person.

A copy of the complaint may not be supplied where to do so may:

- a) Prejudice any criminal investigation or pending proceedings, or
- b) Would otherwise be contrary to the public interest.

Where it is decided not to supply a copy of a complaint, that decision shall be kept under regular review.

### **Step 3 – Deciding how your complaint will be handled**

#### **Option A – Is it a serious complaint that should be passed to the Independent Office for Police Conduct (IOPC)?**

If your complaint alleges criminal conduct (or appears to involve a criminal offence that can be triable in England and Wales) it will be passed to the IOPC **either by the Police and Crime Panel, or by the Chief Executive of the OPCC acting under the power hereby delegated to them.** The IOPC will then decide how to deal with your complaint.

#### **Option B – Are there grounds to reject the complaint?**

It may be decided to reject your complaint and take no action in the following circumstances:

- a) The complaint is by a member of the PCC staff, arising from their work;
- b) The complaint is more than 12 months old where there is no good reason for the delay, or the delay would be likely to cause injustice;
- c) The complaint is about conduct that is already the subject of another complaint;
- d) The complaint is anonymous;
- e) The complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints; or
- f) The complaint is repetitious.
- g) The complaint is trivial, unproved, circumstantial or otherwise wholly inferential

If it is decided to take no action regarding your complaint you will be notified of the reasons for this.

### **Option C – Has the complaint already been satisfactorily dealt with?**

If it appears your complaint has already been satisfactorily dealt with by the time it comes to the Panel's attention, it may decide to take no further action.

### **Option D – Should the complaint be taken forward to Informal Resolution?**

If your complaint has not been passed to the IOPC, rejected, or already been dealt with, it will usually be taken forward to informal resolution.

## **What is Informal Resolution of Complaints?**

Informal Resolution is a way of dealing with a complaint without investigation or formal proceedings. It is a flexible process that may be adapted to the needs of the complainant and the individual complaint.

Informal Resolution may be conducted by the Director of Law and Governance (in consultation with the Chairman and Vice Chairman of the Panel) or by the Panel or a sub-committee of the Panel. Examples of informal resolution include:

- Resolution by telephone
- Providing information
- Concluding the matter through correspondence and explaining the circumstances
- Individual communication between the PCC/DPCC and the complainant via the office of the Director of Law and Governance
- An apology made by the person complained about
- A face to face meeting between the complainant and the person subject to the complaint facilitated through the office of the Director of Law and Governance
- Identification of 'lessons to be learnt' and changes in practice communicated to the complainant

In attempting to secure a resolution the Panel will consider whether further information, clarification or explanation is required and/or whether any actions are required and can be agreed with all parties.

The Panel cannot tender an apology on behalf of the person who is subject to the complaint unless he or she is agreeable to this.



The Panel has no powers to investigate complaints (including seeking corroborating witness statements) but is allowed to ask the person complained against to provide information and documents and /or attend to answer questions.

The Panel cannot impose formal sanctions on the person you have complained about because it does not have the power to do so.

## **Outcome of Informal Resolution**

A record of the outcome of your complaint will be sent to both parties and shall not be published unless (i) both parties have been given the chance to comment on the proposed publication And (ii) it is deemed in the public interest to publish the outcome.

## **Timescales for Handling your Complaint**

Wherever reasonably possible your complaint will be acknowledged within 5 working days. Your complaint will be concluded, insofar as reasonably practicable within 12 weeks if it is dealt with through informal resolution.

However, each case is different, and the time taken to reach a conclusion will depend on the nature of the complaint.

All parties will be kept updated of progress until the complaint reaches a conclusion.

If the complaint is criminal in nature it must be passed to the IOPC as soon as possible. You will be notified if that happens. The IOPC will then decide how to deal with the complaint and will contact you.

## **Withdrawing a Complaint**

If you wish to withdraw your complaint you (or someone authorised to act on your behalf) must say this in writing via post or email. It is however for the Panel to determine whether a complaint should be withdrawn.

## **Appeals**

There is no right of appeal regarding the outcome of the complaint. The Local Government and Social Care Ombudsman has the power to investigate the administration of the complaint process.

If you are unhappy with the way your complaint was handled, you can refer the matter to the Local Government Social Care Ombudsman.