

# Dorset Police and Crime Panel

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Date of Meeting	3 June 2013
Officer	Chief Executive, Dorset County Council
<b>Subject of Report</b>	<b>Complaints Monitoring Protocol</b>
Executive Summary	<p>The Police and Crime Panel is responsible for handling non-criminal complaints against the Commissioner and criminal complaints and conduct matters that are referred back to the Panel by the Independent Police Complaints Commission (IPCC). Point 7 of the Panel’s terms of reference sets out its responsibility:</p> <p style="padding-left: 40px;">‘To fulfil functions in relation to complaints about conduct matters in accordance with the responsibilities placed on the panel by the Police Reform and Social Responsibility Act 2011.’</p> <p>Arrangements for the Panel’s role in complaints handling are set out in the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 and accompanying Home Office Guidance.</p> <p>This function of the panel could potentially take up a great deal of members’ time and resources. It is important to have proposals in place to manage this.</p> <p>It is recommended that the Dorset Police and Crime Panel makes use of their ability under legislation to delegate responsibility for initial handling and recording functions to the Police and Crime Commissioner’s Chief Executive.</p> <p>It is also recommended that the panel establish a sub-committee which would meet at short notice to consider any complaint which had been brought to the attention of the Panel following a failure to agree local resolutions. The alternative would be for the full panel to consider all complaints referred to it at short notice which seems very impractical and unnecessary.</p>

	<p>The proposed protocol is attached as Appendix 1.</p>
<p>Impact Assessment: <i>How have the following contributed to the development of this report?*</i></p>	<p><b>Equalities Impact Assessment:</b></p> <p>The proposed complaints protocol has been assessed from the point of view of its equality impact in two key respects: (1) equal accessibility of the protocol; and (2) fair treatment of those who access it and those who operate it.</p> <p>It is recognised that complaints regarding police matters can relate to sensitive issues. Section 9 of the protocol sets out the expectations of those who use it (complainants, staff and panel members).</p> <p>The complaints protocol provides the same accessibility statement as the recently revised DCC complaints procedure to ensure that no one is excluded from accessing the protocol as a result of their ethnicity or ability to read.</p> <p>Recommendation 5 is included to ensure that the protocol is communicated as widely as possible.</p> <p>Members are invited to suggest any further changes or amendments to the protocol to ensure it provides fairness, dignity and equality to all Dorset’s communities.</p> <hr/> <p><b>Use of Evidence:</b></p> <p>The complaints protocol has been designed to fulfil the requirements of the Police Reform and Social Responsibility Act and takes account of the Local Government Association guidance on ‘Police and Crime Panels: Handling complaints about the Police and Crime Commissioner and their Deputy’,  <a href="http://www.local.gov.uk/c/document_library/get_file?uuid=6ab8a58a-12a6-47c5-b7b6-036e85bb0492&amp;groupId=10171">http://www.local.gov.uk/c/document_library/get_file?uuid=6ab8a58a-12a6-47c5-b7b6-036e85bb0492&amp;groupId=10171</a></p> <p>Both the content and format of the protocol is based partly on the protocols recently agreed by other Police and Crime panels. Specifically, the following documents have been used:</p> <ul style="list-style-type: none"> <li>• Avon and Somerset Police and Crime Panel: Complaints protocol;</li> <li>• Gloucestershire Police and Crime Panel: Dealing with Complaints</li> <li>• Surrey Police and Crime Panel: Complaints Protocol</li> <li>• Hampshire Police and Crime Panel: Procedure for dealing with complaints against the Police and Crime Commissioner</li> </ul> <hr/> <p><b>Budget/Risk Assessment:</b></p> <p>Dorset Local Authorities, Dorset Police and the Office of the Police and Crime Commissioner for Dorset all face reputational, strategic and legal risks if the panel does not fulfil its statutory duties to deal</p>

	with complaints made against the Police and Crime Commissioner.
Recommendation	<p>That the panel:</p> <ol style="list-style-type: none"> <li>1. Adopts the complaints protocol attached as appendix 1, subject to any changes or amendments they wish to make;</li> <li>2. Exercises its right to delegate responsibility for initial handling and recording functions to the Police and Crime Commissioner’s Chief Executive and Monitoring Officer, as allowed under Regulation 7; and</li> <li>3. Agrees the membership of a complaints sub-committee to be convened in the case of a complaint being referred to the panel (5 members, geographically and politically balanced).</li> <li>4. Agrees the terms of reference of a complaints sub-committee as set out in appendix 2, subject to any changes or amendments they wish to make</li> <li>5. Agree that the complaints protocol be published on both Dorsetforyou.com and on the Dorset Police and Crime Commissioner’s web site and that officers from both Dorset County Council and Office of the PCC be asked to undertake any further communication of the protocol they feel would be effective.</li> </ol>
Reason for Recommendation	To ensure the panel meets its duties to deal with non-criminal complaints made against the Police and Crime Commissioner.
Appendices	<ul style="list-style-type: none"> <li>• Appendix 1: Dorset Police and Crime Panel complaints protocol</li> </ul>
Background Papers	Police Reform and Social Responsibility Act.
Report Originator and Contact	<p>Name: Robin Taylor, Senior Policy and Performance Manager          Tel: 01305 22 4715          Email: <a href="mailto:r.taylor@dorsetcc.gov.uk">r.taylor@dorsetcc.gov.uk</a></p>

Debbie Ward  
**Chief Executive**  
 June 2013

APPENDIX I – PROPOSED COMPLAINTS PROTOCOL

**DORSET POLICE AND CRIME PANEL COMPLAINTS PROTOCOL**

**If you wish to make a complaint about the Police and Crime Commissioner for Dorset, please contact the Office of the Police and Crime Commissioner:**

**Office of the Police and Crime Commissioner  
Force Headquarters  
Winfrith  
Dorchester  
Dorset  
DT2 8DZ**

**Telephone: (01202 or 01305) 223966**

**Email: [pcc@dorset.pnn.police.uk](mailto:pcc@dorset.pnn.police.uk)**

## **1 Introduction**

1.1 The Police and Crime Panel is responsible for handling non-criminal complaints against the Commissioner and criminal complaints and conduct matters that are referred back to the Panel by the Independent Police Complaints Commission (IPCC).

1.2 Arrangements for the Panel's role in complaints handling are set out in the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 and accompanying Home Office Guidance. Point 7 of the Panel's terms of reference sets out its responsibility:

'To fulfil functions in relation to complaints about conduct matters in accordance with the responsibilities placed on the panel by the Police Reform and Social Responsibility Act 2011.'

1.3 The Dorset Police and Crime Panel has agreed to delegate responsibility for initial handling and recording functions to the Chief Executive of the Office of the Police and Crime Commissioner for Dorset.

1.4 The purpose of this protocol is:

- to clarify the scope of the Panel's role in dealing with complaints and conduct matters in relation to the Police and Crime Commissioner; and
- to clarify arrangements for delegated responsibility to the Chief Executive of the Office of the Police and Crime Commissioner for Dorset.

## 2 What sort of complaints the panel will look at

- 2.1 The only complaints that fall within the remit of the Panel are those which involve the personal conduct of the Commissioner.

**The panel will consider:**

- **Complaints relating to rudeness by the PCC,**
- **Complaints relating to inappropriate references to people, places or issues by the PCC;**
- **Very minor or spent convictions by the PCC**

- 2.2 The Panel will not consider:

- Criminal complaints about the Commissioner (which must be referred to the IPCC although the panel has the discretion to suspend the Commissioner in the mean time as set out in paragraph 2.3 below);
- Complaints about the Dorset police force (which must be referred to the Constabulary Professional Standards Department, Police and Crime Commissioner or IPCC as appropriate); and
- Complaints relating to other organisations for example the probation service, voluntary sector organisations, the Community Safety Partnership (which must be referred to the relevant complaints procedures of those organisations).

- 2.3 Section 30 of the Police Reform and Social Responsibility Act 2011 gives the panel the ability to suspend the Police and Crime Commissioner if it appears to the Panel that:

- (a) the Commissioner has been charged in the UK, Channel Islands or the Isle of Man with an offence; and
- (b) the offence is one that carries a maximum term of imprisonment exceeding two years.

If the panel does ever need to consider suspension under section 30 then this should be a whole Panel rather than a sub-committee decision.

- 2.4 It is important to distinguish the Panel's scrutiny role from their complaints role. Even if a policy decision taken by the Commissioner generates complaints, if the policy decision in question was correctly agreed, the complaint would not fall within the remit of the Panel's role in complaints handling even though it may inform the Panel in their scrutiny role.

- 2.5 The Panel's decision to delegate responsibility to the Chief Executive is intended to ensure that arrangements are in place to undertake an initial assessment on the appropriate course of action so that issues are dealt with swiftly and effectively to the satisfaction of the complainant. Informal resolution of complaints is often preferable and more effective so long as the complainant is happy with this approach.

### **3 Initial complaint handling and monitoring of all types of complaints**

- 3.1 The Chief Executive of the Office of the Police and Crime Commissioner for Dorset will keep a record of all complaints, purported complaints and conduct matters they receive.
- 3.2 He will look at each complaint and consider it in relation to the criteria set out in section 2 above. If the Chief Executive does not resolve the complaint informally or refer it to another body, he will refer it to the Police and Crime Panel (see section 4).
- 3.3 The Panel will receive regular monitoring reports from the Chief Executive to provide summary information in relation to complaints against the Police and Crime Commissioner and how they have been dealt with.
- 3.4 Members of the Panel will undertake periodic dip-sampling of complaints files held by the Chief Executive and Monitoring Officer to provide assurance with regard to the delegated complaints handling process.

### **4 Referral of complaints to the Dorset Police and Crime Panel**

- 4.1 When the Chief Executive of the Office of the Police and Crime Commissioner for Dorset has decided he needs to refer a complaint to the Police and Crime panel he will:
  - Send a record of the complaint to the complainant and to the person complained about. In the latter case, the Chief Executive may decide not to supply a copy of the complaint, or may provide the complaint in a form which protects the identity of the complainant or any other person. The Chief Executive will also provide the complainant and the person complained about the contact details of the Panel administrator;
  - Refer the record, and copies of all the associated paperwork, to the Panel administrator. This will be no later than two working days after the complaint has been recorded.
- 4.2 On receipt of the complaint, the Panel administrator will:
  - Convene a meeting of the Complaints Sub-Committee, normally to be held within four weeks of the referral of the complaint;
  - Write to the complainant, setting out timescales and details about the informal resolution procedure, and giving the complainant two weeks to make further comments in support of his/her complaint. Where the Panel administrator believes that the circumstances of the case are such that the Complaints Sub-Committee may decide to treat the complaint as having been resolved, he/she will ask the complainant to provide his/her representations in this regard for the Complaints Sub-Committee to take into account; and
  - Write to the person complained about, setting out timescales and providing details about the informal resolution procedure; and giving him/her two weeks to make comments in response to the complaint.

## **5 Consideration by the Police and Crime Panel's complaints sub-committee**

- 5.1 The Panel administrator will compile a brief report for the Complaints Sub-Committee, setting out the relevant details of the complaint, recording any failure by the person complained about to comment on the complaint and making suggestions for the next steps.
- 5.2 Upon meeting, the Complaints Sub-Committee will first consider whether the complaint has been satisfactorily dealt with and, subject to any representations by the complainant, may decide to treat the complaint as having been resolved. In such a case, the Complaints Sub-Committee's reasons will be recorded and notified to the parties.
- 5.3 If the Complaints Sub-Committee believes that the matter has not yet been satisfactorily dealt with, it will determine the most suitable course of action to assist informal resolution. This may include, but not be limited to:
- Asking the Panel administrator to write an explanatory letter to the complainant;
  - Requesting that an officer of the PCC's Office write an explanatory letter to the complainant;
  - Suggesting a change to the Office of the PCC policy;
  - Requesting that an apology be tendered by the person complained about (no apology may be tendered on behalf of the person complained against unless that person has admitted the alleged conduct and agreed to the apology).
- 5.4 In accordance with Regulations, the Complaints Sub-Committee will not conduct an investigation. The Complaints Sub-Committee may exercise its delegated powers to require the person complained against to provide information or documents or attend before it to answer questions or give evidence, as this will not be regarded as an investigation.
- 5.5 However, any other step intended to gather information about the complaint, other than inviting the comments of the complainant and the person complained against, will not be permitted.
- 5.6 If, at any stage, the IPCC informs the PCP that it requires the complaint is to be referred to it, or if the Complaints Sub-Committee decides that the matter has a criminal element and therefore needs to be referred to the IPCC, the informal resolution process will be discontinued.
- 5.7 The Panel administrator will make a record of any informal resolution and will, usually within 5 working days, provide copies to the complainant and the person complained about.
- 5.8 The Panel administrator will provide a report to each quarterly meeting of the PCP, summarising any complaints that have been considered since the last meeting, including the outcome.

## **6 Referral of the Complaint to the IPCC**

- 6.1 It is the duty of a Police and Crime Panel to refer a complaint to the IPCC if it is determined that the complaint is a serious complaint, or the IPCC notifies

the Panel that it requires the complaint to be referred. According to Schedule 7 of the Police Reform and Social Responsibility Act 2011, a 'serious complaint' means a qualifying complaint made about conduct which constitutes or involves, or appears to constitute or involve, the commission of a criminal offence.

- 6.2 The referral must be made as soon as practicable and, in any event, not later than the end of the day following the day when it first becomes clear to the Panel that it is a serious complaint.
- 6.3 To fulfil this duty, the Chief Executive and Monitoring Officer will notify the Chair of the Panel who would directly refer the complaint on to the IPCC. A Panel meeting will be convened at short notice to inform the Panel of actions taken.

## **7 Public Information**

- 7.1 Information about how to make a complaint and the role of the Police and Crime Panel in dealing with complaints and conduct matters in relation to the Police and Crime Commissioner is published on the Police and Crime Panel website. A link to the Police and Crime Panel website will be included on the Complaints page of the Commissioner's website.
- 7.2 It is suggested that complaints are directed to the Chief Executive and Monitoring Officer to ensure that they are dealt with in a timely manner. The Chief Executive and Monitoring Officer will inform the Panel Administrator of complaints considered at initial handling stage, with formal reports to the Panel as set out above.

## **8 Role of the Local Government Ombudsman**

- 8.1 If at any stage there is a complaint about the way in which the panel has carried out or delegated the above functions, the matter can be referred to the Local Government ombudsman, provided that the matter has been subjected to local complaint procedures which have been exhausted.

## **9 Ensuring fairness and equality for all**

- 9.1 This complaints protocol is open for any member of the public to use. The panel will seek to make reasonable adjustments to communicate and deliver key messages in a way that best addresses your needs. Key information can be provided in a range of alternative formats to meet your communication needs. Please see the following page for more information.
- 9.2 It is recognised that complaints relating to police and crime issues can be sensitive. Whilst every effort will always be made to resolve complaints informally to the satisfaction of those who complain, people who do choose to make a formal complaint against the Commissioner according to this protocol will be treated with dignity, fairness and respect regardless of their characteristics in terms of:
  - age;
  - disability;
  - gender reassignment;
  - marriage and civil partnership;

- pregnancy and maternity;
- race, including ethnicity, colour and nationality;
- religion or belief;
- sex; and sexual orientation.

9.3 Members of the Police and Crime Panel and staff at the Office of the Police and Crime Commissioner for Dorset are expected to treat others with fairness, dignity and respect. Equally, those complaining are expected to treat them according to the same principles.

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Chief Executive's Office, County Hall,  
Colliton Park, Dorchester, Dorset DT1 1XJ

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Address:

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## APPENDIX 2 – PROPOSED COMPLAINTS SUB-COMMITTEE TERMS OF REFERENCE

### **Terms of Reference**

- a) To consider and take action with regards to non-criminal complaints against the Police and Crime Commissioner for Dorset and criminal complaints and conduct matters that are referred back to the Panel by the Independent Police Complaints Commission (IPCC), on behalf of the Dorset Police and Crime Panel.
- b) To deal with complaints in accordance with the Complaints Protocol as agreed by the Dorset Police and Crime Panel.
- c) To fulfil functions in relation to complaints about conduct matters in accordance with the responsibilities placed on the panel by the Police Reform and Social Responsibility Act 2011.

### **Frequency of meetings**

- d) The sub-committee will be convened as and when complaints are referred to the panel as set out within section 4 of the complaints protocol. If a significant number of complaints are received, the sub-committee may decide it needs to establish a series of meetings to deal with the complaints.

### **Membership**

- e) The sub-committee will be comprised of 5 panel members and should, as far as is possible, reflect the political and geographical balance of the panel itself.