



COMPLAINTS PROCEDURE: NORTH WALES POLICE AND CRIME COMMISSIONER AND NORTH WALES DEPUTY POLICE AND CRIME COMMISSIONER

1. Introduction

- 1.1 This procedural note details the complaints procedure relating to the North Wales Police and Crime Commissioner (PCC) and the North Wales Deputy Police and Crime Commissioner (DPCC). The note is based on the provisions of the Police Reform and Social Responsibility Act 2011, the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2011 and the Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012.

2. Role of the North Wales Police and Crime Panel

- 2.1 The North Wales Police and Crime Panel (“the Panel”) has statutory responsibilities as to the handling and determination of certain complaints made against the PCC and DPCC. The Panel has delegated its functions to the Strategic Director (Democracy, Regulation and Support) (“the Strategic Director”) at Conwy County Borough Council (the North Wales Police and Crime Panel’s Host Authority) who must consult with the Chair, Vice Chair and one Independent Member (subject to availability) of the North Wales Police and Crime Panel in determining type of complaints received and the strategy for managing complaints for local resolution and the Panel’s final resolution of complaints.

3 Overview

- 3.1 In practice, it will be the Strategic Director (Democracy, Regulation and Support) at Conwy County Borough Council who will make decisions about the management and resolution of complaints in consultation with the Chair. The Chief Executive to the Office of the North Wales Police and Crime Commissioner (OPCC) will be consulted on the strategy for determining whether complaints will be considered by the Panel, the OPCC or referred to the Independent Police Complaints Commission (IPCC).
- 3.2 Appendix 1 provides a flowchart of the complaints process.
- 3.3 For more information about the complaints procedure, please contact Conwy County Borough Council on 01492 576061 or email pcc.complaints@conwy.gov.uk

4. Timescales

- 4.1 The Strategic Director (Democracy, Regulation and Support) will acknowledge receipt of a complaint within 5 working days and will attempt to resolve a general complaint that is not a Conduct Matter or a Serious Complaint within 40 working days.
- 4.2 The IPCC have their own timescales for dealing with Conduct Matters and Serious Complaints.

5. Types of Complaints

There are 3 different categories of complaints:

- 5.1 A Complaint - a general complaint about the PCC or DPCC that is not a Conduct Matter or a Serious Complaint, or is a complaint that is referred to the Panel by the Independent Police Complaints Commission or a police force. The Panel is responsible for the informal resolution of these complaints.
- 5.2 A Conduct Matter - a matter where there is an indication (whether from the circumstances or otherwise) that the PCC and/or DPCC may have committed a criminal offence. Conduct Matters can arise without a complaint being made (for example, press stories). The North Wales Police and Crime Panel must notify the IPCC of Conduct Matters. The IPCC are responsible for considering all Conduct Matters.
- 5.3 A Serious Complaint - a complaint about the conduct of the PCC or DPCC, which constitutes or involves, or appears to constitute or involve the commission of a criminal offence. The North Wales Police and Crime Panel must notify the IPCC of Serious Complaints. The IPCC are responsible for considering all Serious Complaints.

6. Evidence for Conduct Matters and Serious Complaints

- 6.1 The difference between a Conduct Matter and a Serious Complaint is the level of evidence present in the complaint or other circumstances (eg. press reports) as to whether a criminal offence has potentially been committed by the PCC or the DPCC. It is not for the Panel to determine whether a criminal offence has been committed, only to make a judgement as to whether a complaint should be considered a Conduct Matter or Serious Complaint.

7. Making a Complaint about the North Wales Police and Crime Commissioner or the North Wales Deputy Police and Crime Commissioner

- 7.1 Complaints about the PCC or DPCC should be addressed to the Strategic Director (Democracy, Regulation and Support), Conwy County Borough Council, Bodlondeb, Conwy, LL32 8DU or email pcc.complaints@conwy.gov.uk.

- 7.2 Complaints can also be sent to the PCC, DPCC, Chief Executive to the Office of the North Wales Police and Crime Commissioner or Chief Constable. All are contactable at the following address, Office of the North Wales Police and Crime Commissioner, North Wales Police Headquarters, Glan y Don, Colwyn Bay, Conwy LL29 8AW or Phone/Fax 01492 805486.
- 7.3 Complaints can be sent directly to the Independent Police Complaints Commission, PO Box 473, Sale, M33 0BW or email enquiries@ipcc.gsi.gov.uk

8. Receipt of Complaints

- 8.1 Complaints relating to the North Wales PCC and DPCC, which are received by the PCC, DPCC, Chief Executive to the Office of the North Wales Police and Crime Commissioner or Chief Constable must be sent to the Strategic Director at Conwy County Borough Council as soon as practicable.
- 8.2 Upon receipt of a complaint, the Strategic Director will check that the complaint relates to either the PCC or the DPCC. If the complaint relates to a person other than the PCC or DPCC the complaint will be forwarded to the appropriate office and the complainant informed.

9. Determining Type of Complaint

- 9.1 The Strategic Director will consult the Chief Executive and the Chair, Vice Chair and one Independent Member to determine the type of complaint; namely, a complaint for local resolution by the Panel or whether the complaint should be considered a 'Conduct Matter' or 'Serious Complaint' and referred to the IPCC for determination.
- 9.2 If the complaint is considered to be a complaint for local resolution (in whole or part) the complainant will be notified of that fact and provided with an explanation of the action the Panel intend to take; the Panel will also inform the Chief Executive. Likewise, if the complaint is considered to be a 'Conduct Matter' or 'Serious Complaint' it will be referred to the IPCC for determination and the complainant notified.

10. The Recorded Complaints and Conduct Matters Register

- 10.1 If the complaint relates to the PCC or DPCC the complaint will be registered in the 'Recorded Complaints and Conduct Matters Register'.
- 10.2 The Recorded Complaints and Conduct Matters Register is used to record the following information; a summary of the complaint, the category of complaint (Complaint, Conduct Matter or Serious Complaint), the date of receipt, an indication of intended action on the Complaint and any other information deemed relevant.

10.3 If any of the following exceptions apply, it is not necessary to record a Conduct Matter:

- The matter has already been recorded as a complaint; or
- The matter has or is being dealt with by means of criminal proceedings against the PCC or DPCC.

10.4 If the IPCC becomes aware of a Conduct Matter that has not been recorded by the Panel, the IPCC may direct the Panel to record the complaint.

10.5 If any of the following exceptions apply, it is not necessary to record a Complaint:

- If it has been or is currently being dealt with by criminal proceedings: this will normally be the case where the Police have formally charged the person complained about or information alleging an offence has been laid before a magistrate's court; or
- The Complaint has been withdrawn.

10.6 If recorded (in whole or part) the Panel will notify the complainant of that fact and provide information about the next steps to be taken in relation to the Complaint. Likewise, the complainant will be informed of the decision not to record the Complaint and not to take any further action, the grounds on which that decision was made and whether the decision relates to all or part of the Complaint.

10.7 The Panel will also inform the Chief Executive to the Office of the North Wales Police and Crime Commissioner.

11. Requiring More Information Before Recording a Complaint

11.1 Where the Strategic Director considers more information is required in order for a complaint to be considered, he/she may ask the complainant for additional information.

11.2 A decision will then be made whether to record the complaint in the Recorded Complaints and Conduct Matters Register and how the complaint will be progressed.

12. Complaints Made to the PCC and DPCC and Preservation of Evidence

12.1 Where a complaint is made directly to the PCC and/or DPCC, both are under a statutory duty to take all such steps as appears to them to be appropriate for obtaining and preserving evidence in relation to the complaint in question. In discharging this duty they shall take such steps as a reasonable person would consider appropriate in the circumstances to obtain and preserve evidence, and in any event shall comply with any requests of the Panel.

12.2 By no later than the end of the day following the day on which the complaint was made to them, the PCC and/or DPCC must notify the Panel in writing (either by letter or email) of the Complaint (including a copy of the complaint) and provide details of the steps they have taken to preserve such evidence, including its location and in whose custody it is.

13. Complaints Made to a Member of the Police and Crime Panel

13.1 Any complaint addressed to any member of the Panel should be immediately directed to the Strategic Director (Democracy, Regulation and Support) at Conwy County Borough Council, Bodlondeb, Conwy, LL32 8DU or email pcc.complaints@conwy.gov.uk along with any other available information that is relevant to the complaint.

14. Complaints Made to the Chief Constable of the North Wales Police

14.1 Where a complaint is made to the Chief Constable of the North Wales Police, it is the duty of the Chief Constable to give notification of the complaint to the Panel.

15. Complaints Made to the Independent Police Complaints Commission (IPCC)

15.1 When a complaint is made to the IPCC, it is the duty of the IPCC to notify the Panel, unless the IPCC considers that there are exceptional circumstances to justify the notification not being given.

16. Complaints Made against the Chief Constable of the North Wales Police

16.1 The North Wales PCC shall inform the Panel of any complaints made against the Chief Constable of the North Wales Police.

16. Conduct Outside England and Wales

16.1 The North Wales PCC and DPCC shall inform the Panel of any allegation, investigation or proceedings in relation to their conduct, which does not amount to a Conduct Matter (as outlined above) only because the conduct in question did not occur in England or Wales. The Panel may deal with any such instances in whatever manner the Panel considers fit.

17. Conduct Matters Arising from Civil Proceedings

17.1 Where the Panel receives notification that civil proceedings involving a Conduct Matter have been brought against the North Wales PCC or DPCC by a member of the public, or it appears that proceedings are likely to be brought, the Panel shall record the matter and consider it as a complaint.

18. The Panel's Duty to Obtain and Preserve Evidence

18.1 When a complaint comes to the attention of the Panel, it is under a duty to secure that all steps as appropriate are taken for obtaining and preserving evidence in relation to the complaint in question.

19. No Action on a Recorded Complaint

19.1 If the Panel considers that a Recorded Complaint for local resolution is one which requires no action should be taken, or it falls within the circumstances set out below, then the Panel may handle the complaint in whatever manner it thinks fit.

19.2 The types of Recorded Complaint that may be dealt with in this way are:

- Where more than twelve months have elapsed since the incident and there is no reason for the delay, or injustice would be caused by it;
- The matter has already been the subject of a complaint;
- The Complaint is anonymous;
- The Complaint is vexatious, oppressive or otherwise an abuse of the procedures; or
- The Complaint is repetitious. A "repetitious complaint" is one which is the same or substantially the same as a previous complaint, or concerns the same conduct as a previous conduct matter, contains no fresh allegations which affect the account of the conduct complained of, or no fresh evidence (being evidence not reasonably available at the time the previous complaint was made and in respect of which a previous determination or withdrawal of complaint has been made).

19.3 The Panel must notify the complainant that it has decided to handle the Recorded Complaint by taking no further action; the Panel will also inform the Chief Executive.

19.4 Where a complaint is considered vexatious, the Host Authority will apply its own policy for dealing with such complaints.

20. Call in by IPCC

20.1 The Panel must refer a Recorded Complaint to the IPCC if it is notified that the IPCC itself requires the complaint to be referred to the IPCC.

21. Referral of Complaints and Conduct Matters to the IPCC

21.1 Where a Recorded Complaint or Recorded Conduct Matter is to be referred to the IPCC then the Panel shall do so as soon as is practicable, and in any event no later than the end of the day, following the day on which it becomes clear to the Panel that the Complaint or Conduct Matter is one that should be referred to

the IPCC. The details in the Register will be made available to the IPCC together with such other information as the Panel considers appropriate.

- 21.2 On referring a Recorded Complaint to the IPCC, the Panel must notify the complainant and the person complained about of the referral, unless it appears to the Panel that notifying the PCC or DPCC might prejudice a possible future investigation.

22. Referral of Complaints and Conduct Matters from the IPCC to the Panel

- 22.1 Where the IPCC determines that it is not necessary for it to investigate a Recorded Serious Complaint, it may refer the complaint back to the Panel who must deal with the referral in a manner that is considered appropriate within this Complaints Procedure. The IPCC will notify the complainant and the PCC or DPCC complained against about this decision.

- 22.2 The IPCC, where it determines that it is not necessary for it to investigate a Recorded Conduct Matter, may refer the matter back to the Panel who may deal with it in a manner that is considered appropriate within this Complaints Procedure. The IPCC will notify the PCC or DPCC complained against about this decision.

23. Withdrawal of Complaints

- 23.1 If the Panel receives a notification that the complainant wishes to withdraw their complaint, signed either by them or their solicitor or other acting on their behalf, then the complaint shall cease to apply subject to the following:

- If the Recorded Complaint is with the IPCC, the Panel must notify the IPCC that it has recorded the withdrawal of the complaint.
- In the case where the IPCC has referred the Recorded Complaint to the Panel, it must consider whether it is in the public interest for the complaint to be treated as a Conduct Matter (notwithstanding the complaint's withdrawal) and shall notify the IPCC accordingly.

- 23.2 In respect of a Recorded Complaint, which has not been notified to the IPCC, the Panel must determine whether it is in the public interest for the complaint to be treated as a Conduct Matter despite the complainant's withdrawal of it. The Panel shall notify the PCC or DPCC complained about, of the recording of a withdrawal of the Recorded Complaint and whether he/she has decided to treat it as a Recorded Conduct Matter notwithstanding, and shall amend the Register accordingly.

- 23.3 The IPCC, on receiving notification of withdrawal from the Panel of a Recorded Complaint referred to it, shall determine whether it is in the public interest for the complaint to be treated as a Recorded Conduct Matter and notify the Panel, who shall notify the complainant and amend the Register accordingly.

The Regulations also contain provisions for contacting the complainant if they indicate they wish to withdraw their Recorded Complaint, but have not signed the withdrawal request.

- 23.4 If the IPCC refers a matter back to the Panel, in the case of a Recorded Complaint it shall be dealt with in accordance with the Informal Resolution procedure outlined below and, in the case of a Recorded Conduct Matter in such manner as the Panel may determine.

24. Informal Resolution of Complaints by the Panel

- 24.1 A Recorded Complaint against the PCC and/or a DPCC shall be dealt with by the Panel by way of informal resolution.
- 24.2 Informal resolution is considered to be encouraging, facilitating, or otherwise assisting in the resolution of the complaint otherwise than by legal proceedings.

25. Delegation of Informal Resolution Complaints

- 25.1 The Strategic Director (Democracy, Regulation and Support) at Conwy County Borough Council will be responsible for undertaking the process of informal resolution. In doing so the Chair must be consulted about the proposed local resolution strategy and the proposed outcome of the complaint.

26. Further Information

- 26.1 The procedure for informal resolution shall not include a formal investigation of the complaint, but documents in relation to the complaint and meetings with the person complained against may be requested. In attempting to secure resolution of the complaints, the Panel will consider whether further information/clarification/explanation is required and/or whether any actions are required.

27. Resolved Complaints

- 27.1 Where it appears to the Panel that a Recorded Complaint against the PCC and/or DPCC had in fact already been satisfactorily dealt with at the time it was brought to their notice, the Panel may, subject to any further representations, treat it as having been resolved.

28. Apologies

- 28.1 The Panel may seek informally to resolve a complaint by securing an apology from the PCC or DPCC to the complainant, either directly or indirectly. The Panel shall not, however, tender on behalf of the person complained against an apology for the conduct, unless the person complained against has agreed to the issue of an apology.

29. Consultation on Draft Decisions

- 29.1 The Panel shall, prior to making a final decision that a complaint has already been resolved, give the complainant and the person complained against an opportunity to comment on the proposed decision.
- 29.2 Where the person complained against chooses not to comment on the complaint, the Panel shall record this fact in writing.

30. Final Resolution

- 30.1 Where a Recorded Complaint has been subjected to informal resolution, the Panel shall 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.
- 30.2 The Panel shall not publish any part of any such record unless it:
- Has given the complainant and the person complained against the opportunity to make representations in relation to the proposed publication; and
 - Has considered any such representations, and is of the opinion that publication is in the public interest.
- 30.3 In cases where the Panel upholds a Recorded Complaint, it has no legal powers to apply formal sanctions other than to provide an opinion on the conduct of the office-holder concerned.

31. Record Keeping and Provision of Information

- 31.1 The Panel shall keep records of every complaint and purported complaint made or received; every conduct matter recorded by the Panel arising from civil proceedings or otherwise coming to the attention of the Panel; and every exercise of a power or performance of a duty under the Regulations.

32. Annual Reporting of Complaints

- 32.1 The Panel shall receive a report at least annually detailing a summary of each complaint (such as can be reported in public) and the exercise of its functions for monitoring purposes.

Date Approved:

FLOWCHART OUTLINING THE COMPLAINTS PROCESS

Where to send your complaint

All complaints relating to the North Wales Police and Crime Commissioner (PCC) and Deputy Police and Crime Commissioner (Deputy PCC) should be sent to the Strategic Director (Democracy, Regulation and Support) at Conwy County Borough Council. If a complaint relates to a person other than the PCC or Deputy PCC then the complaint will be referred to the appropriate office and the complainant informed accordingly.



Determining type of complaints

The North Wales Police and Crime Panel has delegated its functions to the Strategic Director at Conwy County Borough Council, who must consult with the Chair, Vice Chair, one Independent Member of the Panel and the Chief Executive of the Office of the North Wales Police and Crime Panel in determining the type of complaints received and the strategy for managing complaints for local resolution.



TYPES OF COMPLAINTS

General Complaint

A complaint, which relates to the PCC or Deputy PCC that is not a conduct matter or serious complaint, or a complaint that ceases to be investigated by the IPCC.

Conduct Matter

A complaint where there is an indication (whether from the circumstances or otherwise) that the PCC and/or DPCC may have committed a criminal offence. Conduct Matters can arise without a complaint being made (for example, press stories).

Serious Complaints

A complaint about the conduct of the PCC or Deputy PCC, where there is evidence that constitutes or appears to constitute or involves the commission of a criminal offence.



A general complaint for local resolution will be referred to the North Wales Police and Crime Panel and entered in the Recorded Complaints and Conduct Matters Register. The complainant will be notified of this and provided with an explanation of the action the Panel intend to take.

A complaint considered a Conduct Matter will be referred to the Independent Police Complaints Commission (IPCC) for consideration and entered in the Recorded Complaints and Conduct Matters Register. The complainant will be notified of this action.

A complaint considered as a Serious Complaint will be referred to the Independent Police Complaints Commission (IPCC) for consideration and entered in the Recorded Complaints and Conduct Matters Register. The complainant will be notified of this action.