



**Friday, 10<sup>th</sup> June 2022**

**Police and Crime Panel Meeting**

**Council Chamber, Wakefield County Hall**

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## **Review of Police and Crime Panel Complaints and Misconduct Procedure**

### **1. Purpose**

- 1.1 For Panel to review and agree the West Yorkshire Police and Crime Panel Complaints Procedure which has been revised to reflect the addition of a procedure for vexatious complainants.

### **2. Background**

- 2.1 The Police and Crime Panel Officer and the Panel Support Officer regularly receive and deal with complaints from members of the public which do not fall under the Panel's remit, many of whom are upset and disillusioned with elements of the criminal justice process. However, officers have for some time been dealing with regular written and telephone correspondence from a particular member of the public, who until recently was serving a jail sentence in Armley prison. In March, this person was released from prison, and over the past number of months, has contacted both officers on a significant number of occasions by email and telephone to make complaints which are outside of the remit of the Police and Crime Panel. On every occasion, officers have explained what actions the Panel is able to take and have directed the person to the most appropriate authority; despite this, the person continues to send complaints which are outside of the remit of the Panel and almost daily copies the Panel in to unrelated and irrelevant complaints that have been made to other organisations and bodies. The person demands that Panel Officers pass correspondence and complaints on to other authorities on their behalf, including to the local ward Councillor and has been rude and offensive to members of staff.
- 2.2 As a result of this behaviour, and to provide clear and detailed guidance for similar interactions with complainants in future, the legal advisor to the Panel has proposed an amendment to the Complaints and Misconduct Procedure at point 18. The proposed amendment (attached at Appendix A) explains in full the situations under which it will apply, and details action that may be taken in those situations.

### **3. Recommendation:**

- 3.1 Panel members are asked to review and agree the revised Point 18 in the West Yorkshire Police and Crime Panel Complaints Procedure.

# **West Yorkshire Police and Crime Panel**



## **Complaints and Misconduct Procedure**

### **Dealing with Complaints about the Mayor of West Yorkshire and Deputy Mayor for Policing and Crime**

**Date guidance reviewed: June 2021**

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## **1. Introduction**

- 1.1 This procedure has been developed to ensure compliance with the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 (“the Regulations”) issued under the Police Reform and Social Responsibility Act 2011 (“the Act”). It sets out the process and responsibilities for dealing with complaints about the conduct of the Mayor of West Yorkshire (“Mayor”) when acting in relation to their Police and Crime Commissioner (“PCC”) functions and any Deputy Mayor for Policing and Crime. Nothing in this procedure overrules the provisions of the Act or the Regulations.

## **2. Role of the Panel under the Regulations**

- 2.1 The West Yorkshire Police and Crime Panel (“the Panel”) has a statutory responsibility under the Regulations for: recording complaints about the Mayor when acting in relation to their PCC functions and any Deputy Mayor for Policing and Crime; referring Serious Complaints and Conduct Matters to the Director General of the Independent Office for Police Conduct (IOPC) and dealing with any that are referred back to it by the IOPC; referring to the Combined Authority other complaints (that are not Serious Complaints or Conduct Matters) about the Mayor when acting in relation to their PCC functions and any Deputy Mayor for Policing and Crime in so far as they are a member of the Combined Authority; and informally resolving other complaints (that are not Serious Complaints or Conduct Matters) about any Deputy Mayor for Policing and Crime in so far as they are not a member of the Combined Authority.
- 2.2 It is important to note that the Panel has no powers to investigate complaints, indeed the Regulations explicitly state it cannot do so.
- 2.3 There are separate procedures for complaints about operational policing matters, complaints about the Chief Constable and other police officers, and complaints about the Combined Authority’s staff which are not covered in the Regulations and so are beyond the remit of the Panel. Further clarification on the remit of the Panel’s complaints procedure is set out in paragraph 5 below.

## **3. Scheme of Delegation**

- 3.1 In West Yorkshire, the Panel has given the Chief Executive of The Council of the City of Wakefield, as host authority, full delegated powers to exercise the powers and duties of the Panel under The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 and to put in place such arrangements as they see fit to handle complaints about the Mayor when acting in relation to their PCC functions and any Deputy Mayor for Policing and Crime. In exercise of those powers the Chief Executive has given officers supporting the Panel (Police and Crime Panel Officers) overall responsibility for the complaints process. They oversee and manage the process on a day to day basis and prepare monitoring reports for the Panel. They are authorised to undertake the initial assessment of complaints and all administrative functions in relation to complaints.

- 3.2 Wakefield's Chief Legal Officer acts as the Panel's "Monitoring Officer" responsible for providing legal and administrative services for the Panel.
- 3.3 Officers supporting the Police and Crime Panel must consult Wakefield's Chief Legal Officer or their Deputy if they wish to:
- refer a matter to the IOPC
  - refer a matter to the Combined Authority
  - take no action in relation to the complaint or
  - refer the matter for informal resolution

## 4. Key Definitions

- 4.1 The Regulations and relevant legislation contains a number of key definitions:
- A "**Complaint**" means a general complaint about the conduct of the Mayor when acting in relation to their PCC functions and any Deputy Mayor for Policing and Crime, whether or not that conduct is potentially criminal (s31(1) (a) of the 2011 Act).
  - "**Conduct**" includes acts, omissions, statements and decisions (whether actual, alleged or informed) (Reg. 2 (1)).
  - "**Criminal Offence**" means any offence triable in England and Wales (Reg. 2 (1)).
  - A "**Recorded Complaint**" means a complaint that the Panel formally records because it has determined it is a complaint about the conduct of the Mayor when acting in relation to their PCC functions and any Deputy Mayor for Policing and Crime, and it is the correct Panel to handle it (Reg.9 (5)). The Panel will formally record the complaint by entry in the Recorded Complaints and Conduct Matters Register.
  - A "**Conduct Matter**" means a matter where there is an indication (whether from the circumstances or otherwise) that the Mayor when acting in relation to their PCC functions and any Deputy Mayor for Policing and Crime may have committed a criminal offence (s31 (1)(b) of the 2011 Act), which comes to light other than via a complaint, e.g. a media report or legal proceedings (Home Office Guidance Note).
  - A "**Serious Complaint**" means a complaint about the conduct of the Mayor when acting in relation to their PCC functions and any Deputy Mayor for Policing and Crime which constitutes, involves, or appears to constitute or involve the commission of a criminal offence (Paragraph 2 (6) Schedule 7 to the 2011 Act). The Panel must notify the IOPC of a Serious Complaint.

## 5. Clarification on the Remit of the Panel

- 5.1 The Panel can only record complaints relating to the conduct of the Mayor when acting in relation to their PCC functions and any Deputy Mayor for Policing and Crime in their capacities in such roles primarily, although it is possible for a recorded complaint to extend to their conduct in their private or other public capacities.

### *Complaints against West Yorkshire Police*

- 5.2 West Yorkshire Police is responsible for dealing with most complaints about the Force and the conduct of police officers and staff, while the IOPC investigates the most serious complaints, incidents and allegations of misconduct. Both deal with appeals from people who are not satisfied with the way their complaint has been dealt with.
- 5.4 The Mayor's role when acting in relation to their PCC functions and any Deputy Mayor for Policing and Crime's role is to ensure efficiency and effectiveness of the force. This includes oversight of the West Yorkshire Police's complaints process: how West Yorkshire Police manages complaints, conduct and performance. The Mayor's role is set out in the Policing Protocol as being to "monitor complaints made against officers and staff [of West Yorkshire Police]"
- 5.5 The Mayor when acting in relation to their PCC functions and any Deputy Mayor for Policing and Crime have no remit to act as an advocate for individuals or to investigate individual cases. Nor can they direct the Chief Constable on how to manage an individual complaint. The management of police complaints is an operational matter and under the Police and Social Responsibility Act 2011 and the Policing Protocol Order 2011 the Mayor and any Deputy Mayor for Policing and Crime cannot fetter the operational independence of the Chief Constable.
- 5.6 The Panel therefore cannot consider complaints about the Mayor's or any Deputy Mayor for Policing and Crime's:
- (i) intervention or lack of it into complaints against West Yorkshire Police, its police officers and staff;
  - (ii) failure to act as an advocate for an individual; or
  - (iii) failure to investigate a personal case.

### *Complaints against the Chief Constable*

- 5.7 The Mayor when acting in relation to their PCC functions and any Deputy Mayor for Policing and Crime do have a responsibility for complaints against the Chief Constable. Such complaints are formally recorded by the Mayor or Deputy Mayor for Policing and Crime and serious allegations are referred to another police force to be investigated.
- 5.8 The Panel is not an appeals body for complaints against WYP or the Chief Constable and has no legal power to look into, investigate or order actions to be taken in such cases. Such complaints fall beyond the Panel's jurisdiction.

### *Complaints about the merits of a decision or policy of the Mayor when acting in relation to their PCC functions or of a Deputy Mayor for Policing and Crime*

- 5.9 The Regulations and this complaints procedure do not cover complaints about the merits of a decision made by the Mayor when acting in relation to their PCC functions or by a Deputy Mayor for Policing and Crime, for example where somebody disagrees with a policy the Mayor or a Deputy Mayor for Policing and Crime has introduced. Complaints about whether a decision was taken properly and in accordance with procedures can, however, be considered by the Panel.

- 5.10 Concerns held by the general public about a particular policy is something the Panel should be aware of and reflect upon as it scrutinises the Mayor's policies. However these cannot be taken up through this complaint procedure.

## **6. Submitting a Complaint**

- 6.1 Complaints about the conduct of the Mayor when acting in relation to their PCC functions or any Deputy Mayor for Policing and Crime should be sent in writing to:

West Yorkshire Police & Crime Panel, Town Hall, Wood Street, Wakefield, WF1 2HQ

Or by email: [pcpofficer@wakefield.gov.uk](mailto:pcpofficer@wakefield.gov.uk)

- 6.2 A complaints form is available to download from the Police and Crime Panel website at [www.westyorkshire-pcp.gov.uk](http://www.westyorkshire-pcp.gov.uk) or by telephoning 07920 833358 and requesting a copy.
- 6.3 Complainants may wish to arrange for someone to act on their behalf, such as a friend or relative. However, written consent must be provided by the complainant before the Panel can discuss the case with them.
- 6.4 Where a PCP Officer considers that a complaint requires further information or detail in order for the matter to be properly considered under the Regulations, the complainant may be asked to provide such detail.

## **7. Initial Assessment on Receipt of a Complaint**

- 7.1 Upon receipt of a complaint, the Police and Crime Panel Officer in consultation with the Chief Legal Officer, will determine whether it falls within the scope of the Panel's complaint procedure, whether to record it and, if recorded, how the Recorded Complaint is to be dealt with under the Regulations.
- 7.2 If the complaint falls outside the remit of the Panel, eg, it relates to operational policing, the complainant will be advised and the offer given to pass it to the appropriate body.
- 7.3 Complaints that purport to be a complaint about the Mayor when acting in relation to their PCC functions or any Deputy Mayor for Policing and Crime but in fact relate to the situations described in paragraphs 5.6 to 5.10, will not be recorded by the Panel. The complainant will be advised if a decision is made not to record the whole or part of a complaint and take no action upon it, giving the grounds for this decision.
- 7.4 If the complaint relates to another police force area it will be passed to the relevant police and crime panel.

## **8. Recording a Complaint against the Mayor or Deputy Mayor for Policing and Crime**

- 8.1 A decision on whether or not to record a complaint will be based upon compliance with the Regulations issued under the Act. PCP Officers have delegated responsibility for making that decision.

8.2 If a complaint is recorded, PCP Officers will notify the complainant and the Mayor or Deputy Mayor for Policing and Crime within 10 working days of the complaint being received.

8.3 The PCP Officer will also notify the Mayor or Deputy Mayor for Policing and Crime in writing that a complaint against them has been recorded.

## **9. Non-recording of a Complaint against the Mayor or Deputy Mayor for Policing and Crime**

9.1 If the complaint does not fall within the remit of the Panel then no complaint will be recorded and the complainant will be notified in writing, within 10 working days.

9.2 A complainant has the right to ask the Panel to review the decision if they disagree with the decision not to record a complaint. The request must be submitted in writing within 28 days of the decision not to record the complaint, together with reasons why they disagree with the decision.

## **10. Direct Complaints to the Mayor and Deputy Mayor for Policing and Crime and Preservation of Evidence**

10.1 The Mayor and/or Deputy Mayor for Policing and Crime must notify PCP Officer(s) of a complaint made to them no later than the end of the following working day writing via email to [pcpofficer@wakefield.gov.uk](mailto:pcpofficer@wakefield.gov.uk), and provide details of the steps they have taken to preserve evidence, including its location and in whose custody it is in.

10.2 Where a complaint is made directly to the Mayor and/or Deputy Mayor for Policing and Crime then both are under a statutory duty to take all such steps as appear to them to be appropriate for obtaining and preserving evidence in relation to the conduct in question, both initially and from time to time after that. 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.

## **11. Direct Complaints to Panel Members**

11.1 Any complaint addressed to an individual Panel Member should be immediately directed by the recipient to the PCP Officer(s) via email to [pcpofficer@wakefield.gov.uk](mailto:pcpofficer@wakefield.gov.uk), along with any other available information that is relevant to the complaint, in accordance with the Regulations.

11.2 If Panel Members are approached in person regarding a complaint about the Mayor or Deputy Mayor for Policing and Crime, they must decline to discuss this and direct the complainant to the relevant process and procedures.

## **12. Direct Complaints to the Police**

12.1 Where a complaint is made to the Chief Constable, they have a duty to notify the PCP Officers in writing via email to [pcpofficer@wakefield.gov.uk](mailto:pcpofficer@wakefield.gov.uk).



### **13. Direct Complaints to the Director General of the Independent Office for Police Conduct**

- 13.1 When a complaint is made to the IOPC, it has a duty to notify the Panel to enable a recording decision to be made, unless the IOPC considers that there are exceptional circumstances to justify notification not being given.

### **14. Notification and Recording of Conduct Matters**

- 14.1 If an issue arises other than via a complaint, for example through legal proceedings or media report, where there is an indication (whether from the circumstances or otherwise) that the Mayor or Deputy Mayor for Policing and Crime may have committed a criminal offence in England or Wales or, although committed elsewhere, it is an offence triable in England or Wales, this is referred to as a Conduct Matter.
- 14.2 A Conduct Matter, therefore, occurs where no formal complaint has been received.
- 14.3 Where the existence of such a Conduct Matter is brought to the Panel's attention by virtue of either
- (i) the Conduct Matter, or
  - (ii) the facts relating to the incident giving rise to the Conduct Matter forming part of either:-
    - (a) civil proceedings being brought; or
    - (b) likely to being brought,
- against either any Mayor or Deputy Mayor for Policing and Crime, the Panel will record the Conduct Matter, or refer the matter to the Panel responsible for that PCC or Deputy PCC or Mayor or Deputy Mayor for Policing and Crime (Reg 11).
- 14.4 A Conduct Matter must be recorded, unless the Monitoring Officer is satisfied either of the following exceptions apply (Reg. 12(2)):
- (i) the matter has already been recorded as a complaint under Regulation 9(5); or
  - (ii) the matter has been, or is already being, dealt with by means of criminal proceedings against the Mayor or Deputy Mayor for Policing and Crime. This will normally be the case where the Police have formally charged the person with a criminal offence or information alleging an offence has been laid before a magistrate's court.
- 14.5 If the IOPC becomes aware of a Conduct Matter which has not been recorded by the Panel then the IOPC may direct the Panel to record the matter (Reg.12 (3)).

- 14.6 In order to enable the Panel to discharge its duties under the Regulations, the Panel needs to be informed about any proceedings where the Mayor or Deputy Mayor for Policing and Crime is the defendant to or an interested party in legal proceedings.
- 14.7 The Mayor, Deputy Mayor for Policing and Crime, the Monitoring Officer of the Combined Authority, every counsel, solicitor or legal or other advisor instructed or retained by them are therefore required, as soon as reasonably practicable, to notify the Monitoring Officer for the Panel.
- 14.8 Such persons are expected generally to cooperate with the Panel in the discharge of its statutory duties under the Regulations (Reg.11) to such extent as is not inconsistent with any legal professional privilege or obligation of confidence.

## **15. Conduct Occurring Outside England and Wales**

- 15.1 The Mayor and Deputy Mayor for Policing and Crime are under an individual duty to notify the Panel via the Monitoring Officer of any allegation, investigation or proceedings relating to their conduct outside England or Wales. The Panel can handle the matter in whatever manner (if any) it thinks fit in these circumstances (Reg.17). This decision will be made by the Monitoring Officer.
- 15.2 Accordingly, by no later than the end of the working day following the day on which the investigation, allegation or proceedings (as above) comes to their attention, the Mayor and/or Deputy Mayor for Policing and Crime shall notify the Monitoring Officer of the matter.
- 15.3 This obligation applies to conduct within England and Wales that took place before the Mayor was elected to office or any Deputy Mayor for Policing and Crime was appointed to office.

## **16. Referral of Recorded Serious Complaints and Conduct Matters to the IOPC**

- 16.1 The Monitoring Officer has authority for filtering complaints and deciding which may amount to criminal conduct as a Serious Complaint and should be referred to the IOPC (using IOPC Referral Form 7.1). The Monitoring Officer may take advice from the IOPC before making a referral.
- 16.2 The Monitoring Officer must refer the following to the IOPC:
- (i) All Recorded Conduct Matters;
  - (ii) All Serious Complaints (i.e. a complaint that constitutes or involves or appears to constitute or involve, the commission of a criminal offence); and
  - (iii) Any Serious Complaint or Recorded Conduct Matter where the IOPC has called it in.
- 16.3 On referring a Recorded Complaint or Conduct Matter to the IOPC, the Panel will notify the complainant (where there is one) and the person complained about of the referral, unless it appears that notifying the Mayor or Deputy Mayor for Policing and Crime might prejudice a possible future investigation (Reg. 13(6)). The Monitoring Officer will take this decision.

### *Call-in by the IOPC*

- 16.4 The Panel must refer a Recorded Complaint to the IOPC if required to do so (Reg. 13(3) and (4)).

### *Timescales for Referral to the IOPC*

- 16.5 Referrals should be made 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 Recorded Complaint or Conduct Matter is one that should be referred to the IOPC, or was required to (Reg. 13 (3)). The details in the Register will be made available to the IOPC, together with such other information considered appropriate.

### *Referral-back from the IOPC*

- 16.6 Where the IOPC decides it does not need to investigate a Serious Complaint referred to it, it will refer the complaint back to the Panel to resolve in accordance with Part 4 of the Regulations. The IOPC will notify the complainant and the person complained against about this decision (Reg.14 (2)(a) and (3)).
- 16.7 Where the IOPC decides that it does not need to investigate a Conduct Matter it will refer the matter back to the Panel to be dealt with in such a manner, if any, as the Panel thinks fit. The IOPC will notify the Mayor or Deputy Mayor for Policing and Crime complained against about this decision (Reg. 14(2)(b) and (3)).

## **17. Circumstances the Panel does not need to deal with a Complaint**

- 17.1 If the Monitoring Officer considers that a Recorded Complaint (which is not one that otherwise must be referred to the IOPC) is one in respect of which no action should be taken, and it falls within the circumstances set out below, then they may decide to handle the Recorded Complaint in whatever manner they think fit (Reg. 15 (2)).
- 17.2 The types of Recorded Complaint where the Regulations may be disapplied and dealt with in this way are:
- (i) A complaint concerned entirely with the Mayor's or Deputy Mayor for Policing and Crime's conduct in relation to staff deployed by the Combined Authority wholly or partly in relation to the Mayor's PCC functions at the time when the conduct was supposed to have taken place (Reg.15 (3) (a));
  - (ii) Where more than twelve months have elapsed since the incident and there is no good reason for the delay, or injustice would be caused by the delay (Reg.15 (3) (b));
  - (iii) The matter has already been the subject of a complaint (Reg.15 (3) (c));
  - (iv) The complaint is anonymous (Reg.15 (3) (d));
  - (v) The complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints (Reg.15 (3) (e)); or

(vi) The complaint is repetitious (Reg.15 (3) (f)).

17.3 A “Repetitious Complaint” (above) is one which is:

- (i) the same or substantially the same as a previous complaint, or concerns substantially the same conduct as a previous conduct matter, contains no fresh allegations which affect the account of the conduct complained of, no fresh evidence which was not reasonably available at the time the previous complaint; or
- (ii) has already been referred to the IOPC and dealt with appropriately (Reg. 15 (4)); or
- (iii) has already substantively been dealt with by the Panel

17.4 The Monitoring Officer may handle these complaints in whatever manner (if any) they think fit (Reg. 15 (2)).

17.5 The Monitoring Officer will notify the complainant of any decision not to apply the Regulations to a Recorded Complaint or to take no further action in relation to it and provide the grounds for that decision (Reg.15 (5)).

## **18. Habitual or Vexatious Complaints**

18.1 Where, in the reasonable opinion of the Monitoring Officer, the complaint is either:

- (i) Made with either the objective of causing disproportionate or unjustified level of disruption, irritation or distress to either the PCC, Deputy PCC , the Police and Crime Panel, or the Monitoring Officer;  
  
or
- (ii) Is disproportionate, manifestly unjustified, inappropriate or improper use of the complaints process,

The Monitoring Officer can disapply the Regulations and take no further action in accordance with Regulation. 15 (3) (3).

## **19. The Panel’s Duties to Obtain and Preserve Evidence**

19.1 When a complaint or conduct matter comes to the attention of the Panel, it is under a duty to ensure all appropriate steps are taken to obtain and preserve evidence in relation to the conduct in question, both initially and from time to time after that. It is not the Panel’s role to investigate matters and it is likely that before taking steps to obtain or preserve evidence it will normally consult the IOPC. The IOPC may also give the Panel and the Mayor and/or Deputy Mayor directions for obtaining and preserving evidence (Reg. 8).

- 19.2 Accordingly, the Panel may make formal requests of any of the following persons to take such steps as the Panel considers are expedient or necessary for obtaining and preserving evidence in relation to the conduct in question, both initially and from time to time after that. This includes requests that steps are taken concerning the disposition of the property and resources of the Mayor's office (such as its buildings, assets, equipment, supplies, accounts, records, information, electronic data etc. in their widest sense and wherever located) or other persons:
- (i) The Mayor and/or Deputy Mayor for Policing and Crime;
  - (ii) Any member of staff deployed by the Combined Authority wholly or partly in relation to the Mayor's PCC functions;
  - (iii) Any member or employee of a functional body; and
  - (iv) Any person or organisation having a current or past contractual relationship with the Mayor's office or its predecessors or in receipt of a grant from such bodies.
- 19.3 A person given a direction by the Panel under this procedure shall comply with it in full and generally cooperate with the Panel and its authorised officers in the discharge of their statutory duties under the Regulations.
- 19.4 Such persons shall also permit access and render possession of any such evidence in relation to the conduct complained about to the Panel as is in their possession, custody or control in accordance with instructions.
- 19.5 The Panel shall be informed of any instances where there has been a complete or partial failure by any person or organisation to comply with any request regarding evidence.

## **20. Passing of Complaints (that are not Serious Complaints or Conduct Matters) to the Combined Authority**

- 20.1 If a complaint (that is not a serious complaint or conduct matter) concerns the conduct of the Mayor when acting in relation to their PCC functions or any Deputy Mayor for Policing and Crime who is a Member of the Combined Authority at the time when the complaint is recorded, the Panel must pass that complaint to the Monitoring Officer of the Combined Authority to be dealt with in accordance with the Combined Authority's code of conduct adopted under section 27(2) of the Localism Act 2011.
- 20.2 The Monitoring Officer of the Combined Authority shall as soon as is practicable inform the Panel of the outcome of the complaint.

## **21. Timescales**

- 21.1 Wherever possible complaints will be acknowledged by the Panel within 5 working days, and concluded within 12 weeks if dealt with through informal resolution by the Panel.
- 21.2 However, each case is different and the time taken to reach a conclusion will be determined by the nature of the complaint. The complainant and the person complained about will be provided with regular updates of progress.

- 21.3 These are locally agreed timescales as none are specified within the Regulations.
- 21.4 If the Serious Complaint or Conduct Matter is referred to the IOPC this must be done as soon as possible, and no later than the close of business the day after the Panel becomes aware that the matter should be referred (Reg.13(3)and (4)).
- 21.4 If the complaint (that is not a Serious Complaint or Conduct Matter) is passed to the Combined Authority this must be done as soon as possible.

## **22. Withdrawal of Complaints**

- 22.1 At any stage a complainant may decide that they wish to withdraw their complaint or they wish to discontinue it. If the Panel receives written notification to this effect, signed either by them or their solicitor or other person acting on their behalf, this must be recorded (Reg. 16).
- 22.2 If the Recorded Complaint is with the IOPC, the Panel must notify the IOPC that it has recorded the withdrawal of the complaint. The IOPC will then consider whether the complaint should be treated as a Conduct Matter. The IOPC will notify the Panel accordingly and the Register will be updated.
- 22.3 If the complaint had not been referred to the IOPC, or was referred and then referred back, the Panel must decide whether the complaint should be treated as a Conduct Matter. A complaint should be treated as a Conduct Matter where there is an indication that a criminal offence has been committed (Reg. 16(4)). The Monitoring Officer will make this decision.
- 22.4 Where it is determined (whether by the IOPC or Monitoring Officer) that a withdrawn complaint should be treated as a Conduct Matter, the Panel must record it as a Conduct Matter, and apply the Regulations accordingly (Reg. 16 (6)).
- 22.5 The Panel will follow the provisions prescribed in the Regulations for contacting the complainant if they indicate they wish to withdraw their Recorded Complaint, but have not signed the withdrawal request (Reg.16 (8)).
- 22.6 The Panel will notify the person complained against and the Monitoring Officer of the Combined Authority if it records a complaint as being withdrawn or discontinued, if it is being treated now as a Conduct Matter, or if the Regulations cease to apply to the complaint on the basis that it has been withdrawn or discontinued (Reg. 16(9) unless it was previously decided not to notify the person complained against.

## **23. Resolution of Complaints**

- 23.1 Under Part 4 of the Regulations the Monitoring Officer must make arrangements to informally resolve Recorded Complaints about any Deputy Mayor for Policing and Crime in so far as they are not a member of the Combined Authority which the Monitoring Officer has:
- (i) Not referred to the IOPC, or having referred it to the IOPC, has had it referred back;

and

- (ii) Decided not to disapply the regulations.

23.2 Informal Resolution is a way of dealing with a complaint by solving, explaining, clearing up or settling the matter directly with the complainant, without investigation or formal proceedings. It is a flexible process that may be adapted to the needs of the complainant and the individual complaint. This may be done by correspondence or in a face to face meeting.

23.3 The Monitoring Officer will act as a broker to the informal resolution and in attempting to secure resolution of the complaint, will consider whether further information / clarification / explanation is required and/or whether any actions are required.

23.4 The following formal requirements for Informal Resolution are set out in the Regulations:

- (i) No investigation can take place. The Panel has the power to require the person complained against to provide information and documents and to attend to answer questions. This does not and cannot amount to investigation (Reg. 28 (7)).
- (ii) The complainant and the person complained against must be given the opportunity to comment on the complaint as soon as practicable (Reg. 28 (9)).
- (iii) Any failure by the person complained against to comment on the complaint when invited to do so will be noted in the written record (Reg. 28 (10)).
- (iv) No apology can be tendered on behalf of the person complained against unless the person had admitted the alleged conduct and agreed to the apology (Reg. 28 (11)).

23.5 Where it appears to the Monitoring Officer that a Recorded Complaint against the Deputy Mayor for Policing and Crime in so far as they are not a member of the Combined Authority has in fact already been satisfactorily dealt with by the time it was brought to the Panel's notice, the Monitoring Officer may, subject to any further representations by the complainant, take the decision to treat it as having been resolved and take no further action (Reg. 28 (8)).

## **24. Complaints Sub-Committee**

24.1 If the Monitoring Officer deems that the complaint cannot be resolved based on the written information available, a Complaints Sub-Committee of the Panel may be convened, as permitted in Regulation 28 (3).

24.2 The Complaints Sub-Committee is not an appeal body to reconsider previous Monitoring Officer decisions or resolutions.

24.3 The Complaints Sub-Committee will consist of a minimum of three Panel Members drawn from the full membership of the Panel and will include the Panel's Lead Member

for Complaints. The Panel will ensure that the Complaints Sub-Committee is as balanced as possible.

- 24.4 The Complaints Sub-Committee will meet in private session and neither the complainant nor the person complained about will be invited to attend.
- 24.5 At the meeting the Monitoring Officer, or their representative, will present the available written information to the Sub-Committee.
- 24.6 Given the Panel's inability to investigate, normally the Sub-Committee will only be able to ask the complainant and the person complained about to provide information. Both parties will be invited to make a statement in support of their position and will be expected to answer any questions posed and, where necessary, to provide additional evidence to the members of the Sub-Committee.
- 24.7 The Complaints Sub-Committee will consider the written evidence and recommend an informal resolution.

## **25. Record of Informal Resolution**

- 25.1 A record of the outcome of the informal resolution will be made as soon as practicable after the process has been completed. Copies will be sent to the person complained against and they will have the opportunity to comment on any draft informal resolution before it is issued to the complainant. (Reg. 28 (12)).
- 25.2 The record of the outcome of informal resolution (or part of it) may be published if it is considered to be in the public interest. Before making the decision the Monitoring Officer will give the complainant and the person complained against the opportunity to make representations in relation to the proposed publication (Reg. 28 (13)).
- 25.3 In cases where an informal resolution cannot be agreed the record will detail the reasons given by the parties why the matter could not be resolved.

## **26. Outcome of Informal Resolution**

- 26.1 There can be no formal sanctions with informal resolution. However the Panel may publish a report or make recommendations.

## **27. Review of Complaints Sub-Panel decision and Complaining to the Local Government Ombudsman**

- 27.1 If a complainant is unhappy with the final decision of the Complaints Sub-Panel, they have the right of review by the full Police and Crime Panel.

Complainants may ask for a review if:

- (i) Their complaint was not recorded by the Complaints Sub-Panel
- (ii) The Complaints Sub-Panel did not uphold all or part of the complaint



(iii) They do not agree with the proposed informal resolution.

- 27.2 The purpose of a review is to decide whether the Panel's process was followed correctly and assure itself that the decision proposed by the Complaints Sub-Panel is, therefore, reasonable.
- 27.3 The full Police and Crime Panel will only be provided with information that has previously been considered by the Complaints Sub-Panel. As the review is a consideration of the original decision, it is important that only the same information is considered by the full Police and Crime Panel.
- 27.4 Any review by the full Panel will be held in private session and neither the complainant nor the person complained about will be invited to attend.
- 27.5 There are two possible outcomes to a review:-
- (i) The original decision is not upheld. In that case, the complaint is referred back to officers to look into matters again.
  - (ii) The original decision is upheld. In that case, the Panel's decision is final and the matter is closed.
- 27.6 The Local Government Ombudsman has jurisdiction over the administrative functions of the Panel and complainants can contact them if they are unhappy with the way that the complaint was handled.
- 27.7 The Panel's complaints procedure will need to be followed to its conclusion, before the Local Government Ombudsman will become involved.

## **28. Provision and Recording of Information**

- 28.1 The Police and Crime Panel Officer shall keep records of every complaint and purported complaint made to it or received by the Panel; every Conduct Matter recorded by the Panel and every action taken under the Regulations (Reg. 34).
- 28.2 The Panel shall provide to the IOPC all such information or documents specified and all evidence or other things so specified or described by the IOPC in a notification given by the IOPC to the Panel and in a manner and within a time so specified (Reg. 35).
- 28.3 Summary reports (such as can be reported in public), regarding complaints dealt with under this procedure will be submitted to the Panel on a regular basis for monitoring purposes.