

17 May 2019

Complaint reference:

18 011 918

Complaint against:

West Yorkshire Police and Crime Panel

The Ombudsman's final decision

Summary: Mr B complained the Panel failed to properly investigate his complaint. There is no fault in the way the West Yorkshire Police and Crime Panel dealt with Mr B's complaint.

The complaint

1. The complainant, whom I shall refer to as Mr B, complained the West Yorkshire Police and Crime Panel (Panel) failed to properly consider his complaint about the actions of the West Yorkshire Police and Crime Commissioner (PCC).

The Ombudsman's role and powers

2. The Ombudsman investigates complaints of injustice caused by maladministration and service failure. I have used the word fault to refer to these. The Ombudsman cannot question whether a decision is right or wrong simply because the complainant disagrees with it. He must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3)*)
3. If we are satisfied with the Panel's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)
4. The Ombudsman can consider the role of the Police and Crime Panel in relation to non-criminal matters. The Ombudsman cannot investigate complaints about action taken by police and crime commissioners in connection with the investigation or prevention of crime.

How I considered this complaint

5. As part of the investigation, I have:
 - considered the complaint and Mr B's comments;
 - made enquiries of the Panel and considered the comments and documents the Panel provided;
 - considered Mr B's comments on my draft decision; and
 - gave the Panel an opportunity to comment on my draft decision.

What I found

6. The Police and Crime Panel's role includes:
 - Reviewing the PCC's proposals for the amount of council tax local people pay towards policing. It has the power to veto these proposals if it considers the amount is inappropriate.
 - Considering the PCC's Police and Crime Panel and Annual Report.
 - Considering the PCC's proposals for the appointment of a new Chief Constable, with the power to veto.
 - Investigating complaints about the PCC.

The Panel's complaints procedure

7. The Panel's complaints procedure says Panel has a statutory responsibility under the regulations for handling complaints about the noncriminal behaviour of the PCC or deputy PCC and for informally resolving such complaints. It says the Panel has no powers to investigate complaints.
8. The complaints procedure says there are separate procedures for complaints about operational policing matters, complaints about the Chief Constable and other police officers and complaints about the PCC's staff which are not covered in the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 and are therefore beyond the remit of the Panel.
9. The complaints procedure says West Yorkshire Police is responsible for dealing with most complaints about the force and conduct of police officers and staff. It says the Independent Police Complaints Commission investigates the most serious complaints, incidents and allegations of misconduct. It says both deal with appeals from people who are not satisfied with the way their complaint has been dealt with.
10. The complaints procedure says the PCC has no remit to investigate individual cases. It says the PCC cannot direct the Chief Constable on how to manage an individual complaint. It records managing police complaints is an operational matter and the PCC cannot fetter the operational independence of the Chief Constable.
11. The complaints procedure says Panel cannot consider complaints about the PCC's intervention or lack of it into complaints against West Yorkshire Police, failure to act as an advocate for an individual or failure to investigate a personal case.
12. The complaints procedure says the Panel is not an appeals body for complaints against West Yorkshire Police or the Chief Constable and it has no legal power to look into, investigate or order actions to be taken in such cases.
13. The complaints procedure says Panel can consider complaints about whether a decision by the PCC was taken properly and followed the procedures.
14. The complaints procedure says if a complainant is unhappy with the final decision of the subpanel they have a right of review by the full Police and Crime Panel. It says the purpose of the review is to decide whether the subpanel's process was followed correctly and assure itself the decision is reasonable.

Background

15. Mr B complains about failures in a police investigation about one of his family members. Mr B complained to West Yorkshire Police about illegality and the

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- behaviour of a police officer in investigating these matters. I understand the West Yorkshire Police's Professional Standards Department (PSD) investigated Mr B's complaints but he was dissatisfied with the outcome. I also understand Mr B complained to the Independent Police Complaints Commission and was dissatisfied with the outcome of that investigation.
16. Mr B then complained to the PCC about the police officer and failure of the police force to answer his questions about the investigation. I understand the office of the PCC reviewed the PSD handling of the complaints and asked it to answer some questions it did not consider it had answered. Following that the office of the PCC decided there were no issues of concern and no further action needed.
 17. Mr B complained to the Panel, providing a copy of a letter he had sent to the policing minister. Mr B referred to his concerns about corruption within West Yorkshire Police and the PCC ignoring that evidence. Panel acknowledged the complaint and explained it was responsible for considering noncriminal complaints about the West Yorkshire PCC and his deputy. Panel told Mr B it could not consider a complaint about the performance of West Yorkshire Police or its officers. Panel told Mr B that was a matter for the PSD. Panel asked Mr B for details of any complaint about the PCC.
 18. Mr B told Panel his complaint was about the PCC refusing to deal with his complaint against the behaviour of West Yorkshire Police PSD. Mr B referred to unanswered questions he had posed to the police.
 19. In response Panel explained the complaints process. Panel told Mr B it could not consider any complaint about the performance of the police force. Panel said the complaint appeared to be about the PCC not dealing with his complaint about the PSD which was a matter for the Chief Constable rather than the PCC. Panel therefore advised it would not take any further action.
 20. Mr B contacted the Panel again and explained why he considered the complaint was about the PCC and therefore within Panel's remit. Panel accepted the complaint and recorded it as being about the failure of the PCC to answer Mr B's letter and refusal to consider and investigate a complaint about the Chief Constable.
 21. On 18 July 2018 the subpanel considered the complaint and asked the office of the PCC for further information. The office of the PCC responded on 26 July. The office of the PCC told Panel in its view the police force had answered Mr B's questions and the PCC had responded to his correspondence and complaint about the Chief Constable. The office of the PCC provided the supporting documentation which included copies of communications with Mr B.
 22. The subpanel considered the case again on 22 August. On 6 September Panel wrote to Mr B to tell him the outcome. The letter told Mr B Panel was satisfied the office of the PCC, on behalf of the PCC, had responded to him on many occasions and had delegated authority to do so. The letter told Mr B Panel had noted the office of the PCC had not responded to two further emails from Mr B and recorded subpanel's view that given the communications that had taken place it did not find that to be a refusal and instead a justified move given the history and content of previous conversations. The subpanel said it was satisfied the office of the PCC had responded to Mr B's complaint about the Chief Constable in January 2017. For those reasons the subpanel did not uphold the complaint.

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23. As Mr B was dissatisfied with the subpanel's decision the full Panel considered the case on 5 October. Panel considered the information available to the subpanel at its meetings on 18 July and 22 August. Panel decided the subpanel had followed the legislation and the complaint process and did not change the findings.

Analysis

24. Mr B says the Panel failed to properly investigate his complaint. Mr B says he provided evidence proving West Yorkshire Police had not met professional standards and were not fit for purpose. Mr B also says he provided evidence the Chief Constable had refused to answer his questions. Mr B says despite that the PCC refused to communicate with him directly and delegated to his staff who failed to answer his questions. Mr B says the Panel failed to properly consider those issues.
25. The Ombudsman can only consider whether there was administrative fault in the actions of the Panel. The Ombudsman cannot investigate any complaint about actions taken in the investigation or prevention of a crime. At the centre of Mr B's complaint are allegations of illegality and corruption in the way the police dealt with investigating a crime in relation to one of his family members. These are not issues the Ombudsman can become involved in.
26. I set out the relevant sections of the Panel's complaints procedure in paragraphs 7-14. As I make clear in those paragraphs, Panel's role for complaints is limited to investigating complaints about the PCC and his or her deputy. It is not the responsibility of the Panel to examine the performance of the police force or the Chief Constable. Nor is it the responsibility of the Panel to investigate a complaint about the police force. The role of the Panel is solely to consider the actions of the PCC.
27. Under the Panel's complaints procedure a subpanel should consider complaints and reach a finding. I am satisfied that happened in this case. I am also satisfied the subpanel asked the office of the PCC for more information about what responses it had provided to Mr B as well as whether it had investigated a complaint about the actions of the Chief Constable. I am satisfied in response the office of the PCC provided evidence of communications with Mr B, including the outcome of its consideration of his complaint against the Chief Constable. The office of the PCC also made clear its view West Yorkshire Police had responded to Mr B's questions, although not to his satisfaction.
28. It is clear the subpanel was satisfied, based on the evidence it had received, the office of the PCC had acted properly in relation to the two issues it had agreed to consider – failure to respond to communications and to consider the complaint about the Chief Constable. The subpanel's consideration of the complaint was then considered by the full Panel who agreed with its findings. As I said in paragraph 2, it is not the role of the Ombudsman to comment on the merits of a decision reached without fault. In this case I am satisfied the subpanel had Mr B's representations as well as the response from the office of the PCC and a copy of the communications between Mr B and that office about the matters he was concerned about. I am satisfied Panel considered all the evidence presented to it but decided not to uphold the complaint. I recognise Mr B disagrees with that decision. However, as I have found no fault in how Panel reached that decision I have no grounds to criticise it.
29. In reaching that view, I understand Mr B believes the office of the PCC did not get answers to all his questions. I also understand Mr B believes he has provided

enough evidence to show the Chief Constable has not answered or explained what he describes as unlawful actions within her force. However, my investigation concerns how the Police and Crime Panel considered the complaint Mr B made. I cannot consider the actions of the PCC or the Chief Constable. In this case Panel considered the actions of the PCC, rather than reinvestigating the matters raised by Mr B as such reinvestigation falls outside the Panel's remit. As I have said, there is no evidence of administrative fault in the way the Panel responded to Mr B's complaint. The Panel clearly explained to Mr B it could not consider criminal matters or complaints about police behaviour. It set out the complaint it could consider and this matter went to the subpanel and then to the full West Yorkshire Police and Crime Panel who did not uphold the complaint. The Panel considered all the evidence presented to it but decided not to uphold the complaint. This is a decision the Panel was entitled to take and I cannot question it.

Final decision

30. I have completed my investigation and do not uphold the complaint.

Investigator's decision on behalf of the Ombudsman