

POLICE AND CRIME COMMISSIONER FOR NORTHUMBRIA

MAKING A COMPLAINT

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About this Policy

Policing and crime reduction relies upon all sections of the community having trust and confidence in the police service and those who they elect to oversee it. The Police and Crime Commissioner (PCC) for Northumbria is committed to delivering high standards of professionalism and behaviour at all times and ensuring that the Office of the Police and Crime Commissioner for Northumbria is an organisation that:

- complies with the statutory requirements to oversee complaints against the police and deal appropriately with complaints against the chief constable.
- works with the Independent Office for Police Conduct (IOPC) and Police and Crime Panel in Northumbria, where required, to ensure an efficient and effective response to complaints, to ensure the public receive the highest standard of public service.

This policy sets out the duties of the PCC for Northumbria and their staff in accordance with the responsibilities imposed by the Police Reform and Social Responsibility Act 2011 and the Elected Local Policing Bodies (Complaint and Misconduct) Regulations 2012, in dealing with complaints. This ensures that complaints raised by individuals with the Office of the Police and Crime Commission are dealt with in an efficient and effective manner, by the appropriate body, to ensure the public receive the highest standards of public service.

This policy provides guidance in respect of making a complaint about the:

- Police and Crime Commissioner (PCC);
- Deputy Police and Crime Commissioner (DPCC);
- Office of the Police and Crime Commissioner (OPCC) and its staff;
- Chief Constable of Northumbria Police;
- Northumbria Police; and
- Police and Crime Panel (PCP)

Where appropriate, following complaints we will ensure that where procedural improvements are recommended they will be delivered at the earliest opportunity.

Context

The Police Reform and Social Responsibility Act 2011, introduced changes to the police complaints system with the intention of streamlining the system. The Policing Protocol Order 2011, set out respective roles of the PCC and of the Chief Constable, highlighting the PCC's responsibility for the totality of policing in the local policing area and a mandate to hold the Chief Constable to account.

The Policing Protocol also highlights that PCCs are accountable to local people and are the appropriate authority for any complaints, conduct matters, or death or serious injury matters relating specifically to the Chief Constable.

Complaints against the PCC and/or DPCC

The PCC strives to uphold the highest standards of conduct. However, if you feel that the PCC and/or DPCC have not met these high standards, then you can make a complaint. In relation to complaints against the PCC and DPCC, if the allegation is considered serious and meets a criminal standard, the Independent Office for Police Conduct (IOPC) must deal with it. If it is not a criminal complaint, the Police and Crime Panel for Northumbria, is responsible for trying to solve the matter informally.

Dealing with complaints

In Northumbria, the Police and Crime Panel has agreed to delegate, in accordance with the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012, their duty and powers, under the Regulations, to the PCC's Chief Executive and Monitoring Officer.¹ It is therefore the delegated duty of the Chief Executive and Monitoring Officer of the OPCC for Northumbria to receive any complaints in the first instance. The Monitoring Officer will report, on a regular basis, the summary details (such as can be reported in public), on the exercise of these functions to the Police and Crime Panel for monitoring purposes.

Complaint Definition

There are two definitions that will be considered on receipt of complaints about the PCC and/or DPCC:

1. Recorded Complaints;
2. Conduct Matters; and Serious Complaints

The Chief Executive and Monitoring Officer will decide how a complaint or other information concerning the conduct of the PCC and/or DPCC should be defined and dealt with under the Regulations and consider all the circumstances and relevant information as outlined below.

1. Recorded Complaints

These are complaints against the PCC and/or the DPCC that the Monitoring Officer is obliged under the regulations to record in a Recorded Complaints and Conduct Matters Register. There are, however a number of instances when the Chief Executive and Monitoring Officer, under delegated powers, will not formally record a complaint, including:

- When the matter is already the subject of a complaint.
- When the complaint comes from an officer of the OPCC about their work.
- When the complaint is vexatious, oppressive, or otherwise an abuse of the procedures for dealing with complaints.
- When the matter took place more than 12 months ago and there is no good reason for the delay.
- When the complaint is repetitious.
- When the complaint is anonymous and does not contain enough detail to proceed.
- Matters where a separate, or statutory appeal procedure is in place (e.g. the handling of Freedom of Information Requests, the handling of Data Protection Subject Access Requests).
- A complaint that is being dealt with, or was previously dealt with by legal proceedings.

¹ Criminal and non-criminal complaints in relation to the PCC and/or DPCC can be dealt with and/or delegated in accordance with the Police Reform and Social Responsibility Act 2011, and the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 Part 1 Regulation 7(a).

- An issue that is considered a Police operational issue.
- A complaint against an elected/co-opted member of the Police and Crime Panel, as these will be dealt with in accordance with the relevant local authority's Code of Conduct.
- A complaint about a policy decision taken by members of the Police and Crime Panel.

2. Conduct Matters and Serious Complaints

Complaints that are Serious Complaints or which disclose Conduct Matters, will be referred to the IOPC. It is not the Chief Executive and Monitoring Officers function to investigate or determine whether a crime has been committed: only a court of criminal jurisdiction can definitively rule on the matter. Any investigations related to a potential crime will be undertaken by the IOPC.

The difference between a Conduct Matter and a Serious Complaint is the level of evidence present in the complaint or other circumstances, as to whether a criminal offence has potentially been committed by the PCC and/or the DPCC. Specifically:

A **Conduct Matter** only requires there to be an indication that a criminal offence may have been committed. A mere assertion, without more, that a criminal offence has been committed is unlikely to suffice. However, an assertion coupled with a fairly low degree of evidence, that enough of the necessary elements required to constitute any particular offence are present, is likely to be an adequate indication of potential criminal conduct, resulting in the matter being referred to the IOPC as a Conduct Matter.

A **Serious Complaint** requires stronger evidence, as the evidence must show that there is conduct that appears to constitute or involve the commission of an offence. Therefore the level of evidence that the necessary elements of a criminal offence are present will be more than for a Conduct Matter but, again, is likely to be much less than required under the normal civil standard again resulting in the matter being referred to the IOPC as a serious complaint.

Referral to the IOPC

When a complaint or conduct matter has been referred to the IOPC they will decide whether it is necessary for an investigation to take place. If an investigation is necessary the IOPC will decide whether it should be a managed investigation (carried out by a police force under the direction and control of the IOPC) or an independent one (carried out by IOPC investigators who have the power of a police constable). The IOPC will notify the Police and Crime Panel of its decision.

Recorded Complaints and Conduct Matters Register

All Recorded Complaints and Serious complaints and Conduct Matters are recorded into a database which contains the key details pertaining to a complaint including the date received, the complainant, a summary of the complaint/the category into which it falls (Conduct Matter, Serious Complaint or other Recorded Complaint), the date on which it was recorded, an indication of intended action on the Complaint and any other information deemed relevant.

Reporting to the Police and Crime Panel

The Chief Executive and Monitoring Officer shall report, on a regular basis, the summary details (such as can be reported in public), on the exercise of any and all of these functions to the Police and Crime Panel for monitoring purposes.

Making a Complaint

A complaint against the PCC and/or the DPCC should be made in writing, by post, email, fax, or via telephone as set out below:

Office of the Police and Crime Commissioner
2nd Floor Victory House
Balliol Business Park
Benton Lane
Newcastle upon Tyne
NE12 8EW
Email: enquiries@northumbria-pcc.gov.uk
Telephone: 0191 221 9800
Fax: 0191 221 9828

Dealing with a Complaint

The PCC's Chief Executive and Monitoring Officer records and deals with criminal and non-criminal complaints against the PCC and/or DPCC, and she will:

- confirm receipt of the complaint within 5 working days; and
- endeavour to conclude consideration of the complaint within 12 working days from receipt and send a copy of her findings and proposed action if appropriate to the complainant and the person complained against. (It may be necessary, on occasion, to extend this twelve day guideline. If this is necessary we will write to the complainant advising them of this extension and the reason for the delay).

The Chief Executive and Monitoring Officer will make a determination on the action in relation to the complaint and will make one of the following three decisions and take the appropriate action.

1. Decision not to record a complaint

If the decision is not to record the complaint the Chief Executive and Monitoring Office notify the complainant in writing of the decision to take no action and the grounds for making the decision.

2. Decision to record a complaint

If recorded (in whole or part) the Monitoring Officer will notify the Complainant of that fact and provide information about the next steps to be taken in relation to the Complaint. In cases where the Chief Executive and Monitoring Officer upholds a Recorded Complaint, they have no legal powers to apply formal sanctions other than to provide an opinion on the conduct of the office-holder concerned as compared to the expectations of the PCC and/or DPCCs Code of Conduct and/or the associated principles of public life.

3. Referral to IOPC

If the complaint alleges criminal conduct, the Chief Executive and Monitoring Officer will refer the matter directly to the IOPC as soon as is practicable and not later than the end of the following day, when it becomes clear that it should be referred.

Appeal

There is no ability to appeal against the Chief Executive and Monitoring Officer's decision on a complaint following these investigations, as that decision is final. In these circumstances, you may be able to complain to the Local Government Ombudsman, PO Box 4771, Coventry, CV4 0EH. Website: www.lgo.org.uk/making-a-complaint Telephone: 0300 061 0614.

Complaints against a member of staff of the OPCC

The staff of the OPCC strive to uphold the highest standards in their dealings with the public. For the purpose of this procedure, a complaint is an expression of dissatisfaction of the service provided by the OPCC or conduct of any member of staff made by or on behalf of a person dealing with the OPCC.

Making a Complaint

A complaint may be made in writing, by email, fax, or phone on the details set out below:

Office of the Police and Crime Commissioner
2nd Floor Victory House
Balliol Business Park
Benton Lane
Newcastle upon Tyne
NE12 8EW
Email: enquiries@northumbria-pcc.gov.uk
Telephone: 0191 221 9800
Fax: 0191 221 9828

Dealing with the Complaint

- An officer of the OPCC will confirm receipt of the complaint within 5 working days.
- The officer dealing with your complaint or issue will endeavour to deal with the complaint and provide a quick and satisfactory solution and respond in 12 working days. If may be necessary on occasion to extend this 12 day deadline. If this is necessary an officer of the OPCC will write to the complainant advising them of this extension.

Right of Appeal

- Should you be dissatisfied with the decision of the investigation you have the right of appeal and to request a review of the decision by another officer from the OPCC. To appeal a decision, a complainant must write to the OPCC at the address above requesting a review and detailing the reason(s) why they disagree with the decision.
- The OPCC will acknowledge receipt of the appeal within 5 working days.
- A different OPCC officer will review your appeal and respond within 10 working days.
- The decision of the officer reviewing the appeal will be final.

Complaints against the Chief Constable

The PCC is the appropriate authority for complaints, conduct and death or serious injury matters concerning the Chief Constable of Northumbria Police and is responsible for decisions regarding the recording of all complaint and conduct matters against the Chief Constable. She also has oversight of how the Chief Constable deals with force complaints.

Northumbria Police have adopted the Standards of Professional Behaviour for police staff. The standards set out below reflect the expectations of how the Chief Constable should behave to ensure staff demonstrate the highest standards of professional behaviour at all times. These expectations include requirements to:

- Act with Honesty and Integrity;
- Treat members of the public and their colleagues with Respect and Courtesy;
- Not abuse powers and authority;
- Act with fairness and impartiality;

- Act in a manner that does not discredit or undermine public confidence in the police service.

The PCC will not deal with complaints about operational decisions or policing policies.

Recording complaints against the Chief Constable

The PCC will assess the complaint and judge if it relates to the conduct of the Chief Constable, as an individual officer, rather than as the head of the organisation as a whole. Any complaint about the conduct of the Chief Constable will be recorded, unless it falls within the categories outlined below.² Reasons for a decision of non-recording of a complaint include:

- The PCC is satisfied that the subject matter of the complaint is already being dealt with;
- The complaint has been withdrawn;
- The complaint falls within a description of complaints specified by the Police (Complaints and Misconduct) Regulations 2012. These are special cases and apply if:
 - The matter is already the subject of a complaint made by or on behalf of the same complainant
 - The complaint discloses neither the name and address of the complainant nor that of any other interested person and it is not reasonably practicable to ascertain such a name or address i.e. an anonymous complaint
 - The complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints;
 - The complaint is repetitious or fanciful.

Making a Complaint

The PCC acts as the disciplinary body (appropriate authority) for the Chief Constable.

Arrangements for dealing with complaints against the personal conduct³ of a Chief Constable are statutory, as set out within the Police Reform Act 2002.

If you wish to make a complaint about the personal conduct of the Chief Constable, then please set out clearly what the complaint is about in writing, by email, fax, or phone on the details set out below:

Office of the Police and Crime Commissioner
 2nd Floor Victory House
 Balliol Business Park
 Benton Lane
 Newcastle upon Tyne
 NE12 8EW
 Email: enquiries@northumbria-pcc.gov.uk
 Telephone: 0191 221 9800
 Fax: 0191 221 9828

Dealing with the Complaint

We will acknowledge receipt of your complaint within 5 working days and the PCC will decide whether to record the complaint within 10 working days and notify you accordingly, in accordance with the Statutory Guidance produced by the IOPC.

² The Police Reform Act 2002 and The Police (Complaints and Misconduct) Regulations 2012 / IOPC Statutory Guidance to the police service on the handling of complaints, 2013, Section 3.19

³ IOPC Statutory Guidance to the police service on the handling of complaints, 2013, Section 3.24 'Conduct includes acts, omissions, statements and decisions / Section 29, Police Reform Act 2002

Stopping a complaint investigation

The PCC has the right to stop (discontinue) an investigation in certain circumstances. If so, the PCC will write to you to say that you have 28 days to make representations as to why the complaint should not be stopped.⁴

Right of Appeal

- The OPCC will decide whether the complaint can be resolved locally or if there could be potential grounds for criminal or misconduct proceedings, which will require formal investigation and involvement of the IOPC.
- The OPCC will also determine whether any action should be taken and whether disciplinary proceedings should be brought if the complaint is against the current Chief Constable.
- You have the right to appeal the decision of the PCC, in writing to the IOPC,⁵ which can be contacted on the details below:

Independent Office for Police Conduct

PO Box 473

Sale

M33 0BW

Telephone switchboard: 0300 020 0096 (press 2 at prompt)

Fax: 020 7404 0430

Email: enquiries@iopc.gsi.gov.uk

Complaints against Northumbria Police Officers and Staff

Complaints against Northumbria Police (except Chief Constable)

The Chief Constable is the appropriate authority for complaints, civil issues, and other matters concerning police officers and police staff of Northumbria Police. The PCC is not involved in the investigation of such complaints. The Chief Constable is the correct authority to respond to all complaints concerning police officers and police staff.

Receipt of a complaint by the OPCC

This procedure sets out the process for officers of the OPCC in dealing with a complaint about a policing matter if it is received by the OPCC.

Where the complaint refers to a civil claim or against the conduct of a serving Northumbria Police Officer or member of police staff, the OPCC will:

- Acknowledge receipt of the complaint within 5 working days.
- A copy of complaint will then be forwarded on to Northumbria Police.
- Northumbria Police will deal the civil claim and investigate the complaint and report directly back to the complainant and in respect of complaints provide a copy of their response to the PCC.

Where the complaint refers to the service received from the Northumbria Police, the OPCC will:

- Acknowledge receipt of the complaint within 5 working days.
- Forward a copy of the complaint concerning a police officer and/or police staff to Northumbria Police.

⁴ Police (Complaints & Misconduct) Regulations 2012, Regulation 10, Police (Complaints & Misconduct) Regulations 2012)

⁵ IOPC Statutory Guidance to the police service on the handling of complaints, 2013, Section 10.18

- Northumbria Police will investigate the complaint within 20 days and report back to the PCC.
- The OPCC will then write back to the complainant, within 5 days advising them of the findings and their right to appeal to the IOPC.

If you would prefer to forward your complaint directly to Northumbria Police, you can log onto the website http://www.northumbria.police.uk/contact_us/service/unhappy.asp and follow the process outlined for complaints or alternatively write to the following address:

Professional Standards Department,
Northumbria Police Headquarters,
North Road,
Ponteland,
Newcastle upon Tyne,
NE20 0BL.

Complaints against a Member of the Police and Crime Panel

A complaint made against an elected or co-opted member of the Police and Crime Panel will be dealt with in accordance with the relevant local authority's Code of Conduct. If you have a complaint against the conduct of a member of the Police and Crime Panel please contact Gateshead Council Legal and Corporate Services on the address below:

Clerk to the Police and Crime Panel
Civic Centre
Regent Street
Gateshead
NE8 1HH

The Police and Crime Panel is a local authority administered committee. If you are dissatisfied by the way your complaint has been handled you can contact the Local Government Ombudsman on the details below:

Local Government Ombudsman,
PO Box 4771
Coventry
CV4 0EH

Website: www.lgo.org.uk/making-a-complaint / Telephone: 0300 061 0614