

# **Police and Crime Commissioner for Essex**

## **Complaints Policy**

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**Version history**

<b>Version Number</b>	<b>Date</b>	<b>Reason for review</b>	<b>Comments</b>
<b>1.0</b>	November 2012		First publication
<b>2.0</b>	February 2016	Policy update	Amendments to reflect the introduction of legally qualified chairs for appeal process.

## **1.0 About this Policy**

The Police and Crime Commissioner for Essex (PCC) is committed to providing the highest professional standards of service to the public. Professional standards are at the core of public service and will undoubtedly impact on both public reassurance and confidence. The Police and Crime Commissioner and their staff are therefore required to meet and exceed such expectations. To act with honesty, integrity, courtesy and patience at all times.

This policy sets out the duties of the PCC and his staff in responding to the responsibilities imposed by the Police Reform and Social Responsibility Act 2011 and the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012, in dealing with complaints.

## **2.0 General Principles**

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 and improve it. The public therefore has a right to expect high standards of behaviour and professionalism at all times.

The PCC and staff, have a responsibility to:

- Listen and respond to concerns expressed by members of the public;
- To build confidence in the services provided and rigorously investigate any allegation or complaint in order to:
  - Combat corruption;
  - Promote professionalism;
  - Learn from mistakes;
  - Improve the quality and equality of service;
  - Reduce dissatisfaction.

The PCC has agreed and published a code of conduct based Nolan's 'seven principles' of public life which will apply to the PCC and their Deputies

The PCC will respond to well founded criticism; challenging improper practice with a willingness to learn and change. The Monitoring Officer in partnership with the Police and Crime Panel has a responsibility to scrutinise the PCC in the performance of their duties to maintain and improve the quality of service provided to the people of Essex.

### **3.0 Statement of Policy**

The public expects both the PCC and staff will maintain the highest professional standards and will:

- Challenge conduct which falls below the required standard
- Promote equality, diversity and human rights
- Develop and maintain positive working relationships with colleagues, partners and other members of the community

The PCC, the Chief Executive or other delegated manager will ensure that incidents of public complaint or misconduct are resolved using the complaints procedure in compliance with the following regulations:

- Police Reform and Social Responsibility Act 2011;
- Police Staff Disciplinary Procedure;
- Police (Conduct) Regulations 2008;
- Police (Performance) Regulations 2008;
- Home Office Guidance, Police Officer Misconduct;
- The Police Appeals Tribunal Rules 2008
- IPCC Statutory Guidance
- PCC Staff Discipline Procedure

The Chief Executive will provide advice and support to staff with regard to the implementation of this policy. The intention will be to maintain public confidence through the appropriate management of the complaints procedure.

### **4.0 The Police and Crime Commissioner**

The Police and Crime Commissioner is the appropriate authority for complaints and conduct matters concerning the Chief Constable. The PCC is responsible for the recording of all complaint and conduct matters against the Chief Constable

Where the PCC decides not to record the whole or part of any complaint, the complainant must be notified of the reasons supporting this decision. Further guidance is available from the [legislation](#).

The PCC is the appropriate authority for complaints against the Chief Executive of the PCC's staff.

Where the complaint made relates to the conduct of the PCC the Police Crime Panel should be notified immediately. This will include any allegation, investigation or proceedings amounting to a complaint or conduct matter which occurs outside England and Wales.

In addition the PCC is responsible for monitoring complaints and conduct matters made against officers and staff of Essex Police

The PCC will ensure the publication of a statement about the conduct of the PCC and Deputy PCC<sup>1</sup>.

The PCC and staff have a clear duty to report suspected corruption, dishonest or unethical behaviour. The PCC and Chief Executive will encourage and enable staff to raise such concerns with confidence; they will be fully supported by their colleagues and dealt with in an appropriate and structured manner.

#### **4.1.1 Joint complaints**

In the event of a complaint or conduct allegation being made regarding the Chief Constable and other individuals in the chief officer team, the PCC will agree with Essex Police, the arrangements for managing such an investigation. The investigation may be undertaken by an outside force or jointly by the PCC (chief constable complaint) and Essex Police Professional Standards Department (other chief officer complaints).

#### **4.1.2 Monitoring Complaints and Conduct Matters against Essex Police**

The PCC will monitor all complaints and conduct matters and other legal proceedings involving Essex Police officers and staff.

The Professional Standards Department will provide information on a quarterly basis. PCC staff will dip-sample an agreed number of investigations completed each quarter.

#### **4.1.3 Powers to Direct**

The [Police Reform and Social Responsibility Act](#)<sup>2</sup> empowers the PCC to direct the chief constable to comply with any recommendations concerning the management of complaint and misconduct matters. The PCC may direct the Chief Constable to take appropriate steps, who will comply with any direction given.

## **4.2 The Police and Crime Panel**

The Police and Crime Panel (PCP) is the appropriate authority for all complaint and conduct matters made against the PCC and the deputy

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<sup>1</sup> *(The Elected Local Policing Bodies (Specified Information) Order 2011*

<sup>2</sup> *(Schedule 14 section 7)*

PCC(s). They are responsible for the initial recording of an allegation and contact with the complainant.

Where the allegation amounts to a criminal complaint or serious misconduct the matter will be referred to the Independent Police Complaints Commission (IPCC).

The PCP may delegate any of the powers or duties conferred upon it by the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 to the Chief Executive of the OPCC, this will include:

- Notification and recording of complaints
- Duties to preserve evidence
- Ability to refer serious complaints and conduct matters to the IPCC
- Ability to withdraw or discontinue complaints.

This will not include any powers or duties conferred upon PCP by virtue of Part 4 Resolution of Other Complaints contained within Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012.

Delegation of these powers must be on a case by case basis.

Where the Chief Executive has previously been involved in an advisory capacity concerning a complaint and the potential for a conflict of interest arises, caution should be exercised concerning the delegation of any powers.

Delegation from the PCP would preclude the Chief Executive from advising the PCC on any complaints or conduct matters being dealt with by the PCP.

Communication with the Police and Crime Panel is through the PCP secretariat.

#### **4.3 The Chief Executive**

The Chief Executive will undertake the role of a Monitoring Officer to ensure lawful and fair decision making. This will include any proposal, decision or omission likely to give rise to unlawfulness or maladministration. In addition, The Chief Executive is responsible for ensuring that the procedures outlined within this document are in accordance with the following principles:

- Fairness and consistency
- Respect for all people
- Accountability
- Improving standards
- Proportionality
- Increasing public confidence

- Timeliness and effectiveness

In order to achieve these principles the Chief Executive will have management of all complaints and conduct matters received that relate to the staff of the PCC's office, and will have overall responsibility for the:

- Early assessment of the complaint either as a direction and control or conduct matter;
- Initial recording and regular monitoring;
- Allocation to the relevant authority to ensure the complaint is effectively resolved at an appropriate level;
- Publication of information relating to complaint and conduct matters;
- Publishing complaint information as the PCP shall specify
- Management of complaints and conduct matters concerning PCC staff

The Chief Executive is the appropriate authority for complaints against staff under the direction and control of the PCC and these will be investigated in accordance with the PCC Staff Discipline Procedure.

The behaviour of staff, whether on or off duty affects public confidence. Conduct which brings or is likely to bring discredit to the PCC will be dealt with in accordance with the Staff Discipline Procedure.

#### **4.4 Independent Police Complaints Commission**

The Independent Police Complaints Commission will:

- Direct the PCP to record any complaint or a conduct matter against the PCC where they have not previously done so;
  - Call in any complaints and conduct matters against the PCC not previously referred to them;
  - Determine the mode of investigation concerning criminal allegations against the PCC or deputy PCC.
- Refer the matter to the CPS where there is sufficient evidence relating to criminal behaviour.

The IPCC will not:

- Deal with any complaints or conduct matters that do not involve an allegation of criminal behaviour by the PCC or deputy
- Have any role in relation to complaints against members of the PCC's staff other than the deputy PCC.

#### **4.5 Police Appeals Tribunals Rules (PAT)**

In the case of an officer appeal being successfully granted by a QC Chair (other than a chief officer) or a special constable, the Police Appeals Tribunal (the Tribunal) will consist of three members appointed by the OPCC who will be responsible for facilitating the PAT and meeting the costs and expenses of the Appeals.

The three members will be:

- A legally qualified Chair drawn from an approved list maintained by the Home Office
- A serving police officer from another force at ACPO rank; and
- A retired member of a police force who was a member of an “appropriate staff association” – drawn from an approved list maintained by the Home Office.

Arranging/Facilitation

The local OPCC will be responsible for arranging and facilitating the PAT, which will include arranging a venue suitable for a public hearing (if applicable)

#### **4.6 Misconduct Proceedings – Senior Police Officer**

Where a case is referred to a misconduct meeting or hearing the misconduct proceedings shall be conducted by the following panel of persons appointed by the appropriate authority:-

- A Legally Qualified Chair appointed by the force, taken from an approved list maintained by the Home Office and kept centrally at Cambridgeshire OPCC.
- HMCIC or an inspector of constabulary nominated by HMCIC; and
- An independent panel member from a list of candidates maintained by Cambridgeshire OPCC.

A member of the OPCC will be contacted by Professional Standards Department at the force with details of a hearing and will ask for an independent panel member to be recruited. The responsible person from the OPCC will contact Cambridgeshire OPCC to ask for the next four names from the list and once an IPM has agreed to participate, will pass these details onto PSD at the force.

#### **Misconduct Proceedings – Police Officer (lower rank)**

The same procedure applies as above, however the force will recruit an ACC or senior staff member from own force (usually director level), instead of from the HMCIC

Refer to Home Office Guidance [here](#) for more detailed information.

## **5.0 Implications of the Policy**

### **5.1 Financial Implications**

There are no additional financial implications regarding the implementation of this policy document.

### **5.2 Staffing and Training**

The Chief Executive will regularly review complaints received against staff and other members of the office of Police and Crime Commissioner to identify and action:

- Common failings
- Shared learning outcomes
- Individual training needs of staff and other members of the office of Police and Crime Commissioner

### **5.3 Existing Partnership Agreements**

The office of Police and Crime Commissioner has an agreed protocol with Essex Police and the Crown Prosecution Service concerning the process relating to criminal charges of both officers and staff, to ensure that confidentiality is maintained. The office of Police and Crime Commissioner works in consultation with all staff associations to ensure that staff are treated in a fair and transparent manner.

## **6.0 Monitoring/Review**

The Chief Executive will formally review this policy and associated procedure on an annual basis from the date of publication, to consider:

- Its effectiveness in the business area concerned
- Any changes to legislation
- Challenges to the procedure
- Any identified concerns in relation to implementation

## **7.0 Related Policies and Information Sources**

### **7.1 Related Procedures**

- Information Sharing Protocol – Essex Police
- Information Sharing Protocol – Police and Crime Panel

### **7.2 Related Policies**

- Police and Crime Commissioner – Staff Disciplinary Procedure

### **7.3 Other Source Documents**

NOT PROTECTIVELY MARKED

- Police Reform Act 2002
- Police (Conduct) Regulations 2008
- Police (Performance) Regulations 2008
- IPCC Statutory Guidance
- Home Office Guidance, Police Officer Misconduct