



NORTHUMBRIA POLICE AND CRIME PANEL

PANEL MEETING ON 2 FEBRUARY 2021

SUBJECT – COMPLAINTS PROTOCOL

REPORT OF THE CLERK TO THE PANEL

1. Purpose of Report

- 1.1 The Panel is asked to consider the revisions to the complaints handling procedures.

2. Background

- 2.1 The Police and Crime Panel is responsible for handling non-criminal complaints against the Commissioner and criminal complaints and conduct matters that are referred back to the Panel by the Independent Office for Police Conduct (IOPC). The only complaints that fall within the remit of the Panel are those which involve the personal conduct of the Commissioner.
- 2.2 Arrangements for the Panel's role in complaints handling are set out in the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 ("the Regulations") and accompanying Home Office Guidance.
- 2.3 With the exception of the informal resolution of complaints, the Panel may delegate any of its powers or duties under the Regulations to the Chief of Staff (Chief Executive) of the PCC.
- 2.4 The Panel has had in place a longstanding delegation to the Chief of Staff recognising that for the Panel to discharge all these functions itself would take up a great deal of members' time and would stretch the limited resources directly available to the Panel.
- 2.5 The Panel continue to have overall responsibility for complaints against the Commissioner and the Chief of Staff is required to report to the Panel on the use of the delegation.
- 2.6 The Panel's decision to delegate responsibility to the Chief of Staff is intended to ensure that arrangements are in place to undertake an initial assessment on the appropriate course of action so that issues are dealt with swiftly and effectively.
- 2.7 Whilst the process to date has generally worked well and is regularly monitored by the Panel, it is recognised that some aspects of the process particularly in respect

of the management of unreasonable complainant behaviour require additional measures to ensure the Panel and by extension the Chief of Staff can effectively discharge the Panel duties. Accordingly, it is also recommended that the Panel agree a protocol on the management of unreasonable complainant behaviour.

3. Recommendation

3.1 The Panel is asked to

- (i) Agree the unreasonable complainant behaviour protocol at appendix 1.
- (ii) Agree that the delegation to the Chief of Staff will include the application of the unreasonable complainant behaviour protocol.

(iii) **Appendix 1**

Protocol on the management of unreasonable complainant behaviour

1 Introduction

- 1.1 The Northumbria Police and Crime Panel (“the Panel”) is committed to providing an effective service to members of the public in respect of complaints made against the Police and Crime Commissioner for Northumbria (“the Commissioner”).
- 1.2 The only complaints that fall within the remit of the Panel are those which involve the personal conduct of the Commissioner.
- 1.3 Complaints about the administration of the Panel are the responsibility of the lead authority and will be dealt with under the lead authority’s complaints processes.
- 1.4 Complaints about individual panel members are the responsibility of their appointing authority. Complaints against independent panel members will be dealt with by the lead authority.
- 1.5 The Panel is committed to dealing with all complaints fully and in a timely manner.
- 1.6 The Panel has delegated part of its role in handling complaints to the Chief of Staff in the Office of the Police and Crime Commissioner, including assessments relating to the management of unreasonable complainant behaviour. Delegation of this power to the Chief of Staff does not preclude a meeting of the Panel being called to determine a decision in respect of unreasonable complainant behaviour should it be deemed necessary by the Chief of Staff or in accordance with the procedures for calling a meeting of the Panel.
- 1.7 The Panel recognise that there may be times when a member of the public may not be satisfied with the outcomes reached by the Chief of Staff or the Panel itself. Should any individual not be satisfied with the Panel’s conduct in relation to a complaint, an option open to them is to refer a case to the Local Government and Social Care Ombudsman.
- 1.8 Most complaints reviewed by the Chief of Staff or by the Panel are subject to a straightforward process, but in a small number of cases complainants may pursue their complaints in a way that disrupts the way the complaint is reviewed or disproportionately takes officers supporting the Panel away from their other duties. Similarly, complainants who have had their complaints resolved by the Chief of Staff or by the Panel may continue to pursue their complaint, or request outcomes to their case that are outside the remit of the Panel or the Panel is unwilling to grant.
- 1.9 The aim of this protocol is to inform complainants about what the Panel considers to be unreasonable complainant behaviour, the options available to the Panel and the possible consequences to the individual.
- 1.10 The Chief of Staff or the Panel will only invoke this protocol after very careful consideration, the circumstances for which must be exceptional. Individuals may have justified complaints but may be pursuing them in an inappropriate way, or they may be intent on pursuing complaints which appear to have no substance, or which have already been investigated and determined. Such complaints may rarely occur, but if a complainant’s behaviour adversely affects the Panel’s ability to do its work, or the work of any of its supporting officers, the Chief of Staff or the Panel may decide to restrict the contact that person has with the Chief of Staff or the Panel.

- 1.11 If the Chief of Staff or the Panel decide to invoke this guidance, the Chief of Staff or the Clerk to the Panel (or an officer acting on their behalf) will write to the individual concerned to tell them why it is considered that his or her behaviour falls into that category, what action will be taken and the duration of that action.

2 Definition of unreasonable complainant behaviour

- 2.1 The Panel has adopted an equivalent definition to that used by the Local Government and Social Care Ombudsman. The Panel consider that unreasonable complainant behaviour occurs where:

- 2.1.1 there is repeated and obsessive pursuit of a complaint which appears to have no substance or which has been investigated and determined.

- 2.1.2 the contact may be amicable but still place very heavy demands on officer or Member time or may be very emotionally charged and distressing for all involved.

- 2.1.3 there is an escalation of behaviour which is unacceptable, for example abusive, offensive or threatening behaviour.

- 2.2 Examples include the way or frequency that complainants raise their complaint with the Panel, or how complainants respond when they are told of a decision of their complaint.

3 Considerations to be made before taking action to restrict access

- 3.1 All complainants have the right to have their complaint considered at an initial stage by the Chief of Staff or by the Panel. The Panel will ensure that the complaints procedure is exhausted or ended at a point that is appropriate to each case and the complainant notified as such.

- 3.2 The Panel will consider and ensure they have an awareness of an individual's circumstances, how and why they feel as they do and what it is that would resolve the matter for them. The Panel will ensure that complainants have had a reasonable opportunity to express their views and opinions, that these have been listened to and that appropriate consideration and effort to resolving and explaining the position and the actions of the Panel have taken place.

- 3.3 Before deciding whether the protocol should be applied, the Chief of Staff or the Panel will consider and satisfy themselves that:

- 3.3.1 The complaint is being or has been adequately reviewed and any decision reached has been found to be appropriate based on the information presented to the Chief of Staff or the Panel at the time.

- 3.3.2 Communications with the complainant have been adequate and within the Panel's policies.

- 3.3.3 Any decision reached has been reviewed and is found to be appropriate.

- 3.3.4 The complainant is not providing any significant new information that might affect the Panel's view on the complaint.

- 3.3.5 There is not another, more specific path for the complainant to follow

- 3.4 Some individuals that may be considered to be unreasonable complainants may be behaving this way because of a specific circumstance or difficulty. Where this is indicated the Panel will take this into account in determining the reasonableness of the complaint made.

3.5 Any restrictive actions that may be taken will be tailored based on the circumstances and behaviour of the individual and their complaint.

4 **Possible Actions**

4.1 Actions that could be taken to restrict access and contact:

4.1.1 Limiting the complainant to one medium of contact (telephone, letter, email etc.) and/or requiring the complainant to communicate only with one named member of staff. If this is by email, it will be automatically forwarded to the named single point of contact;

4.1.2 Placing restrictions on the amount of time the Panel and their officers will spend reviewing their complaints;

4.1.3 Letting the complainant know that the Panel will not reply to or acknowledge any further contact from them on the specific topic of that complaint;

4.1.4 Refusing to register and process further complaints about the same matter.

4.1.5 In some circumstances, the Panel may decide that it is appropriate to severely reduce or completely stop responding to a particular complainant.

5 **Process for the application of the Guidance Note on the management of unreasonable complainant behaviour**

5.1 **First Stage – Notification/Warning**

5.3 The Chief of Staff will review, in consultation with the Chair and the Clerk, why the complainant's behaviour is causing a concern, giving clear documented evidence to support this and outlining how the behaviour needs to change.

5.4 The Chief of Staff or the Clerk (or an officer on their behalf) will write to the complainant explaining to them the actions that may be taken if their behaviour does not change, along with a copy of this guidance.

Second Stage – Application

5.5 Should the complainant continue to demonstrate unreasonable behaviour, following receipt of the notification, the Panel, or the Chief of Staff, in consultation with the Chair and the Clerk, will determine whether to apply the unreasonable complainant protocol and what actions will be taken.

5.6 If the Panel or the Chief of Staff determines to apply the protocol on the management of unreasonable complainant behaviour, the Chief of Staff or the Clerk (or an officer on their behalf) will write to the complainant explaining to them the actions to be taken. All letters should include:

5.6.1 Why this decision has been reached;

5.6.2 What specific action is being taken;

5.6.3 The duration of that action;

5.6.4 The date the decision will be reviewed;

5.6.5 The circumstances that the decision could be reviewed in advance of that date (for example new relevant information);

5.6.6 The right of the complainant to contact the Local Government and Social Care Ombudsman about the fact that they have been treated as an unreasonable complainant.

- 5.7 Any decision taken to apply this protocol if not made by the Panel itself will be formally reported to the Panel at the first available Panel Meeting following the date of the determination.
- 5.8 A log of the decision made and records of contacts with the complainant will be kept. This information will be treated as confidential and only shared with those who may be affected by the decision in order for them to carry out their role.
- 5.9 Key information to be recorded includes:
- 5.9.1 when a decision is taken not to apply the guidance, or
 - 5.9.2 when a decision is taken to make an exception to the guidance once it has been applied, or
 - 5.9.3 when a decision is taken not to put a further complaint from the complainant through the complaints procedure for any reason, and
 - 5.9.4 when a decision is taken not to respond to further correspondence, make sure any further letters, faxes or emails from the complainant are checked to pick up any significant new information.
- 5.10 Any further contact from the complainant, for example on a new issue, will be treated on its merits.

6 Who will be informed about restrictions

- 6.1 All officers and Members who have experienced unreasonable complainant behaviour relating to the specific complaint will be informed of the decision to impose contact restrictions.

7 Reviewing the decision to restrict access

- 7.1 When imposing a restriction on access, a specified review date should be given. Once that date has been reached any restrictions should be lifted and relationships returned to normal unless there are continuing grounds to extend the restriction.
- 7.2 The Panel or the Chief of Staff, will review the restriction at the agreed time. If the decision is made to lift the restriction, the complainant will be informed of that decision. If restriction is to continue, the reasons for the continuation of the restriction will be given to the complainant along with the next review date.

8 Referring complainants to the Local Government and Social Care Ombudsman

- 8.1 A complainant who is not satisfied with the determinations of the Panel or the Chief of Staff may make a complaint to the Ombudsman, who will consider the case. Should they determine that the referral of a complaint warrants further consideration, they will review the process followed by the Panel or its Chief of Staff in reaching any such conclusion.
- 8.2 A complainant who has been designated as unreasonable may make a complaint to the Ombudsman about the way in which they have been treated. The Ombudsman is unlikely to be critical where the Panel or the Chief of Staff has acted proportionately and in accordance with its adopted protocols.

9 Harassment and bullying

- 9.1 Unreasonable complainant behaviour may amount to bullying or harassment. All Panel members and officers have the right to be treated with respect and dignity in the workplace. Behaviour by third parties that bullies, harasses or intimidates

individuals is unacceptable and will not be tolerated. The Panel will take all reasonable steps to prevent such behaviour.