

## Case Sampling Protocol

Each police and crime commissioner for a police area has a number of statutory responsibilities, which are principally laid out in the Police Act 1996 (as amended by the Police Reform and Social Responsibility Act 2011).

The Police & Crime Commissioner will hold the Chief Constable to account for the service which the public should expect from the Police & Crime Commissioner and the Constabulary. Part of that service will be the dealing of complaints.

Amendments to the police complaints system by the Police Reform and Social Responsibility Act were designed to streamline and remove unnecessary bureaucracy from the system ensuring that complaints are handled at the lowest appropriate level.

Schedule 14, Section 7 of the Police Reform and Social Responsibility Act gives power to the 'local policing body' to direct the chief officer of police to comply with obligations in regard to complaints and therefore the monitoring of complaints would be seen by a Police and Crime Commissioner as an important part of their role. The local policing body may direct the Chief Officer to take such steps as the local policing body thinks appropriate and the Chief Officer must comply with any direction given.

Five elements, which the Police & Crime Commissioner should have in place to maintain effectively an on-going scrutiny and oversight of complaints against the Constabulary would be:

1. Process and procedural audits as compared with Home Office Guidance on complaint handling;
2. Dip-sampling of completed complaints files;
3. Analysis of statistics and trends;
4. Strategic analysis;
5. Discussion with stakeholders and partners.

This protocol is to specify procedures adopted by agreement between the Police and Crime Commissioner and Lancashire Constabulary, particularly towards elements numbered 1 and 2 above.

These procedures are intended to assure public trust and confidence by embedding transparent and structured processes for the Police & Crime Commissioner to discharge that individual element more effectively, as part of their overall function.

This approach will also enhance the Police & Crime Commissioner's ability to fulfil the other elements, as well as the enhanced expectations of the Independent Police Complaints Commission (IPCC) introduced under the Police Reform Act 2002. The IPCC has produced Statutory Guidance which outlines the responsibilities of Police & Crime Commissioners.

The purpose of this structured approach is to ensure that complaints in Lancashire are being dealt with rigorously and fairly, in line with IPCC Statutory Guidance and

Constabulary policies and procedures, under processes understood by the Police and Crime Commissioner. If a series of cases (on their facts and outcomes) together indicated a consistent area for concern, then the Police and Crime Commissioner may review them in conjunction with the Constabulary and other stakeholders to see whether wider lessons emerge.

### **Case Sample Procedure**

Member of the Joint Audit and Ethics Committee will attend, by arrangement the offices of the Constabulary's Professional Standards Department no more than once every calendar month and no less than once on a quarterly basis.

The Office of the Police & Crime Commissioner and Professional Standards Department are responsible for making these arrangements, according to the availability of individual staff.

Members of the Joint Audit and Ethics Committee will audit process and procedures using the agreed checklist as attached. Files will be selected from a list of closed and direction and control complaints, provided by the Professional Standards Department to the member of staff at the time of attendance.

### **Number or proportion of completed files to be inspected**

It is not practical to inspect all files completed during the quarter year preceding the case sampling session. Instead an agreed number of completed files from the quarter year preceding the meeting will be inspected.

The number identified for inspection has been agreed as representing both an appropriate proportion from the total number of files completed in an average year and also a realistic quantity for the member of staff to give appropriate attention to.

The Police & Crime Commissioner reserves the right to increase or decrease that specified number if necessary, by agreement with the Constabulary. The frequency of attendances to the PSD Offices will also influence the number of files which are dip-sampled. However, the Constabulary is committed to assisting this process in enhancing trust and confidence in the police complaints system and restrictions on access to files should not be a barrier.

- 1.** The number of dip-sampled files chosen from those concluded by means of Local Resolution to be inspected at a meeting is: **5 (five)**
- 2.** The number of dip-sampled files chosen from completed files (other disposals) to be inspected at a meeting is: **4 (four)**
- 3.** The number of dip-sampled files chosen from those recorded as Direction and Control to be inspected at a meeting is: **4 (four)**
- 4.** The number of completed files chosen to be put forward by the Constabulary for inspection at a meeting (on the basis they represent instructive examples of Substantiated; Best Practice; or Unusual / Problematic cases) is: **3 (three)**

NB: In conducting dip-sampling under this protocol it is important to note it is not a review of the appropriateness or otherwise of the conclusion reached in any individual case. There should not be undue weight on the factual issues arising in a case.

### **Completed Appeal files to be inspected**

From 22 November 2012 the IPCC now deal with any appeals against non-recorded complaints, conduct of a senior officer (rank above Chief Superintendent), ie more serious allegations, along with specific appeals in respect of managed or supervised investigations. As they have had involvement in the complaint they will be the appropriate body to deal with the appeal.

The Constabulary will deal with appeals resulting from local resolution outcome complaints, local investigation outcome complaints, appeal against disapplication/discontinuation granted by the Constabulary.

5. The number of appeal files chosen from those concluded by the Constabulary to be inspected at a meeting is: **10%** of the finalised number.

### **Case Sample Outcomes**

This case-sampling protocol represents an understanding agreed between the Constabulary and the Police & Crime Commissioner in Lancashire. It is intended to constitute an important limb of the overall scrutiny and public accountability which is delivered by a Police & Crime Commissioner in pursuit of statutory duties set out the Police Reform and Social Responsibility Act 2011.

Complaints against the police is a key area where realised or potential impacts on human rights, race, or other equality issues can be revealed. ("Stop & Search" or "Stop & Account" provides one important example). This is why the vigilance of the Police & Crime Commissioner provides one important part of the framework of remedies and reassurances available to members of the public in this field.

This protocol is therefore intended to help:

- provide public reassurance about the integrity, effectiveness and efficiency of policing in Lancashire;
- assess the risk of policing impacting adversely and disproportionately on human rights; or on minority or minority ethnic groups in Lancashire;
- assess whether such risks can be justified as proportionate, legitimate, legal, and minimised;
- assist decision-making about the policing method or policy involved.
- When assessing the potential impact or indicated effect of policing processes, methods, procedures or policy upon equality, consideration will at the same time be given to ethnic or national origin, race, colour, or nationality. (Where an impact is also identified on other minorities, or on issues of religious belief, gender, sexual orientation, disability, age and social background, then this will also be reported on where appropriate).

## **Concerns or Questions**

The members of the Joint Audit and Ethics Committee will at the first instance bring any concerns or questions they may have about processes or procedures to the attention of the Head of Professional Standards Department, to invite explanations.

They will also draw them to the attention of the Police & Crime Commissioner and Chief Constable by way of a written quarterly report to the Strategic Scrutiny meeting.

The Police & Crime Commissioner may then wish to raise the matter with the Chief Constable who will respond, as appropriate, with advice and explanations.

In addition to the above, the report by Members of the Joint Audit and Ethics Committee will also measure their satisfaction with the sampling visit, the application of the checklists and the outcome of the sampling exercise.

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	<b>Area to Review</b>	<b>Checks to make</b>
1	Whether the complaint addressed correctly under the relevant legislation	Should it have been referred to the IPCC?
2	Complaint form	Completed correctly with sufficient information?
3	Covering report submitted by officer completing complaint form	Is there sufficient information to detail the complaint and the officer if identified?
4	If the complaint is deemed a 'direction and control' issue	Is there sufficient justification for the complaint to be considered a 'direction and control' issue? Is the matter being complained about the result of an officer adhering to Force policy or was it an issue of that officer's actions/judgement? The more senior the officer, the more likely it is that the complaint relates to a decision they have made about setting or interpreting policy rather than what that policy is. Care should be taken in determining whether Direction and Control is actually that rather than a senior officer making poor or inappropriate judgements.
5	Acknowledgement of receipt of complaint	Letters to complainant on receipt – timely and responsive in terms of process description, rights and force standards? Is the investigating officer identified to complainant?
6	Subject officer issued with notice detailing what they can expect from the investigation and how it will be handled?	Timely? Is sufficient detail on notice to reflect the nature of the complaint? Is the officer advised personally that a complaint has been made prior to him/her receiving official notice?
7	Initial contact with complainant by investigating officer	Timely, sufficient and appropriate communication, responding given any particular needs of the complainant (eg. illness, language)?
8	If locally resolved or dispensed	Was process followed and fully documented? Was decision to resolve locally justified?
9	If withdrawn	Was it appropriate to withdraw? Did the complainant understand the complaints process?
10	Complainant's statement	Does it clearly define the complaint and complainant's wishes?
11	Witnesses	All witnesses identified and contacted by investigating officer?

12	Evidence	All relevant evidence obtained and considered appropriately?
13	Interview of officer and their duty report	Issues of complaint explored? Rules of interviewing complied with?
14	Investigating officer's report	Concise, balanced and fair? Is it an accurate account of the complaint and investigation?
15	The final response to the complainant and the officer	Timely, responsive, conclusive? Whether they have an appeal right?
16	Quality audit/service delivery/human rights	Any issues identified? Were they properly addressed and actioned?
17	Number of days to complete investigation from 'live' date	A reasonable period since commencement? Reason for delay?
18	Does the complaint or the way it was investigated indicate any trends?	Are there opportunities to improve police service delivery either in the complaints management process or broader? Has the Force identified and actioned those opportunities?
19	Was the process proportionate to the complaint?	Where too many resources used to investigate a complaint that could and should have been resolved quickly/simplely?
20	Justification of the outcomes of the complaint process?	Is the approach, review and conclusion appropriate and supported by evidence?