



**Lancashire
Constabulary**
police and communities together

**Case Sampling Protocol for police officers and police staff
complaints, misconduct and grievance cases**

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Case Sampling Protocol

1. 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).
2. 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 about the Constabulary from the public.
3. Amendments to the police complaints system by the Police Reform and Social Responsibility Act 2011 were designed to streamline and remove unnecessary bureaucracy from the system ensuring that complaints are handled at the lowest appropriate level.
4. Schedule 14, Section 7 of the Police Reform and Social Responsibility Act 2011 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.
5. 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:
 - Process and procedural audits as compared with Home Office Guidance on complaint handling;
 - Dip-sampling of completed complaints files;
 - Analysis of statistics and trends;
 - Strategic analysis;
 - Discussion with stakeholders and partners.
6. This protocol is to specify procedures adopted by agreement between the Police and Crime Commissioner and Lancashire Constabulary, particularly towards the first two elements identified in paragraph 5 above.
7. 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.
8. 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 Office for Police Conduct (IOPC) introduced under the Police

Reform Act 2002. The IOPC has produced Statutory Guidance which outlines the responsibilities of Police & Crime Commissioners.

9. The purpose of this structured approach is to ensure that complaints in Lancashire are being dealt with rigorously and fairly, in line with IOPC 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

10. 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.
11. Members of the Joint Audit and Ethics Committee will audit process and procedures. Files will be selected by the Committee members on a random basis from information, provided by the Professional Standards Department and the Office of the Police & Crime Commissioner

Carrying out the inspection

12. The members of the JAEC carrying out the sampling inspection will take appropriate steps to satisfy themselves, the PCC and the Committee that the complaints handling process is being carried out in line with statutory requirements and IOPC guidelines. This inspection will include, where appropriate, and subject to the discretion of the members, to the direction of the PCC and/or the Committee:
 - A sample of case files randomly selected to include a range of categorisation and outcomes. The number and type of case and the rationale for selection should be explained in the members report.
 - A review of the systems and processes in operation, including the use of available resources to deal with demand
 - A review of any actual or proposed changes to systems and processes, including an assessment and evaluation of their impact upon the quality of service delivery
 - A review of any satisfaction surveys
13. 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

14. Since 22 November 2012 the IOPC 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.
15. The Constabulary will deal with appeals resulting from local resolution outcome complaints, local investigation outcome complaints, appeal against disapplication/discontinuation granted by the Constabulary.
 - A review of appeal files randomly selected from those concluded by the Constabulary.

Completed Misconduct and Grievance Cases

16. In addition to the dip-sampling of complaints, the Joint Audit & Ethics Committee have agreed that misconduct and grievance cases should also be reviewed to assure public trust and confidence.
17. In relation to misconduct cases, it has been agreed, in consultation with the Chief Constable that where misconduct cases have reached the final assessment stage by the PSD and it has been agreed not to pursue the case either via either a Misconduct Hearing or meeting, a number of files will be dip sampled by the Joint Audit & Ethics member to ensure the correct process and procedure has been followed.
18. In relation to grievance cases, PSD and HR will provide the Commissioner's Office with a list of cases that have been concluded within the last 3 months and have not been subject to an appeal. A small sample of those cases will be selected as set out below and will be analysed to ascertain if the procedures have been followed correctly. The reviewer will draft a report for both PSD/HR. Any recommendations or commendations will be made by way of this report.
 - Grievance cases considered to be suitable for local resolution.
 - Grievance cases where the appeal threshold has been passed and no appeal has been made.
 - Grievance cases (where an appeal was made and this has now concluded).

Case Sample Outcomes

19. 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.

20. 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

21. 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.

22. 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.

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

24. 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.

	Area to Review	Checks to make
1	Whether the complaint addressed correctly under the relevant legislation	Should it have been referred to the IOPC?
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?