

POLICY FOR DEALING WITH UNREASONABLE / UNREASONABLY PERSISTENT / VEXATIOUS COMPLAINTS

1. Introduction

- 1.1 The Police and Crime Commissioner (PCC) is committed to dealing with complaints fairly, thoroughly, impartially and in a timely way. Generally, dealing with a complaint is a straight forward process following established policies and procedures. The PCC staff are committed to respond with patience and understanding to the needs of all complainants and to seek to resolve their complaints.
- 1.2 However, there are times when the complainant is not satisfied with the resolution offered and they may attempt to pursue their complaints in an unreasonable way. Their actions and behaviour may impede the proper investigation of their complaint or may impede the normal running of my business. This may lead to significant resource implications which are out of proportion with the nature/seriousness of the complaint. The PCC would define such behaviour as 'unreasonable', 'unreasonably persistent' or 'vexatious'.
- 1.3 This policy is designed to help the PCC and staff to identify and deal with unreasonable, unreasonably persistent and vexatious complaints in a demonstrably consistent and fair way. It assists staff to understand clearly what is expected of them, what options for action are available, and who can authorise these actions.

2. Scope of the Policy

- 2.1 This policy and guidance covers:
- a) all complaints capable of being made under the complaints procedure, these relate to:
 - i) the level of service in respect of complaints about an officer of the PCC or a contractor engaged on behalf of the PCC;
 - ii) complaints about the conduct of an officer of the PCC or of a contractor engaged on behalf of the PCC;
 - b) complaints in relation to the work of the Independent Custody Visitors;
 - c) complaints received under the PCC's Anti-Fraud and Corruption Strategy;
- 2.2 This policy does not cover complaints about the Police and Crime Commissioner. Any actions and behaviours by someone who has complained about the Police and Crime Commissioner which are considered to fall within the remit identified in Section 7 will be dealt with by the Police and Crime Panel for Lancashire in accordance with their agreed procedure.
- 2.3 This policy does not cover complaints about the Chief Constable of Lancashire Constabulary. Any actions and behaviours by someone who has complained about the Chief Constable which are considered to fall within the remit identified in Section 3 will be dealt with by applying to the Independent Police Complaints Commission to disapply the requirements of Schedule 3 of the Police Reform Act 2002. Such matters will be dealt with

under Schedule 3, Part 1, Paragraph 7 of the Police Reform Act 2002 and Regulation 5, Police (Complaints and Misconduct) Regulations 2012.

2.3 This policy does not cover complaints or any actions and behaviours by someone arising from a request for information under the Freedom of Information Act. Such matters will be considered on a case by case basis in accordance with the Freedom of Information Act 2000, taking account of the Information Commissioner's Office guidance and any case law emerging from the Tribunal decisions.

3. **Actions and Behaviour of Unreasonable/ Unreasonably persistent and vexatious complaints**

3.1 Listed below are some of the actions and behaviours that PCC considers to be unreasonable, unreasonably persistent and vexatious. The list is not exhaustive and will on occasion need to be reviewed to take account of differing factors and new legislative requirements.

- Refusing to specify clearly the grounds of their complaint, despite offers of assistance from the PCC or staff.
- Refusing to use the relevant Complaints Policy/procedure of the PCC despite being advised to do so.
- Refusing to accept that issues are not within the remit of a complaints policy/procedure despite having been provided with information about the policy's/procedure's scope.
- Refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
- Insisting on the complaint being dealt with in ways which are incompatible with the PCC's adopted complaints policies and procedures or with good practice.
- Making what appear to be groundless complaints about the staff dealing with the complaint, and seeking to have the officer dismissed.
- Changing the basis of the complaint as the investigation proceeds and/or denying statements the complainant made at an earlier stage.
- Introducing irrelevant new information into a complaint which the complainant expects to be taken into account and commented on, or raising detailed but unimportant questions or comments and insisting they are fully answered.
- Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved.
- Adopting a 'scattergun' approach; pursuing a complaint or complaints with the PCC or staff and, at the same time, with others eg the Independent Police Complaints Commission, a Member of Parliament/a local Councillor/local police/solicitors.
- Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being looked into, for example by submitting repeat complaints, by excessive telephoning or sending emails to a number of staff, writing regular

letters/emails and expecting responses more quickly than the timescales set out in the policy/procedure.

- Submitting repeat complaints after the complaints processes have been completed, essentially about the same issues, with additions/variations which the complainant insists make these 'new' complaints which should be put through the full complaints procedure.
- Refusing to accept the PCC's decision – repeatedly arguing the point and complaining about the decision.
- Using abusive or threatening language eg swearing and use of exaggerated and unpleasant language in correspondence, to officers.
- Using bullying, physical or psychological threats as a means to gain leverage with an officer.

4. How the PCC will deal with such complaints

- 4.1 Each complaint submitted to the PCC will be assessed on its own merits. Where a member of staff who is dealing with a complaint has grounds for concern that a complainant may be pursuing their complaint in an unreasonable way, they shall refer the complaint to the Director or the lead officer for Governance for consideration.
- 4.2 The Director or the lead officer for Governance will consider the complaint fully and ensure that the relevant policy/procedure has been correctly followed and that the PCC has addressed each element of the complaint. They will also check whether any new issues are raised which are significantly different from the original complaint.
- 4.3 Having considered the circumstances of the case, the Director or the lead officer for Governance may come to the view that the behaviour of the complainant falls within the scope of this policy and that the complaint should be treated as unreasonable, unreasonably persistent and/or vexatious. In all cases, before taking any action under paragraph 5, the Director or the lead officer for Governance will give the complainant a written warning that if his/her actions continue the PCC will deal with his/her complaint in accordance with this policy, and explain why.
- 4.4 If the complainant persists with the complaint in an unreasonable, unreasonably persistent or vexatious manner, the Director or the lead officer for Governance will determine what action will be taken in accordance with the provisions set out in this policy.
- 4.5 The decisions to treat a complaint as unreasonable, unreasonably persistent and/or vexatious and to determine what action is to be taken will may be made by the Director or the lead officer for Governance, following consultation with the PCC, or in his/her absence, the Deputy PCC. Decisions will be made having regard to the circumstances of the case.
- 4.6 The Director or the lead officer for Governance must notify the other of any decision to treat a complaint as unreasonable, unreasonably persistent or vexatious. This information will be monitored and kept on a central database.
- 4.7 If a complainant considers that he/she would benefit from additional assistance in pursuing their complaint, the use of an independent advocate might be helpful to both parties.

5. Any action taken by the Director or the lead officer for Governance should be appropriate and proportionate. The possible options are:
- 5.1
- An early use of mediation by inviting the complainant to a face-to-face meeting. At least two PCC personnel will meet with the complainant.
 - Continue to proceed with the complaint under the relevant policy/procedure and provide the complainant with one point of contact, who will keep a record of all contacts made.
 - In a letter, setting out a code of behaviour and responsibilities for the parties involved if the PCC is to continue investigating the complaint.
- 5.2 If these terms and conditions are contravened by the complainant, then the Director or the lead officer for Governance may consider implementing other action as listed below.
- Decline contact with the complainant either in person, by telephone, by letter, e-mail or fax, provided that one form of contact remains open via a nominated contact.
 - Advise the complainant that they have exhausted the complaints procedure and that there is nothing more to add to the points raised. Explain to them that further contact with the PCC will serve no useful purpose. The complainant will also be notified that their complaint is being treated as an unreasonable, unreasonably persistent or vexatious complaint and, as such, correspondence is at an end and that no further correspondence about the same matter will be acknowledged.
 - A record of all contacts made by the complainant thereafter must be kept. The correspondence will be read but, where it contains no fresh evidence which affects the decision, it will not be acknowledged but merely placed on the file.
 - Where a complainant continues to behave in a way which is unacceptable, the PCC reserves the right to suspend all contact with the complainant while it seeks legal advice.

6. Review

- 6.1 The decision to treat a complaint as unreasonable, unreasonably persistent or vexatious will be reviewed by the Director or the lead officer for Governance on a regular basis. The frequency of review will be determined depending upon the nature of the complainant's behaviour and the circumstances of the case.
- 6.2 The complainant will be informed of the result of this review if the decision to apply this policy to them is changed or extended.
- 6.3 The Director or the lead officer for Governance will keep the PCC or Deputy PCC (whichever was consulted on the initial decision) updated about the review.

7. Vexatious complaints and the conduct of the PCC and Deputy PCC

- 7.1 The Police and Crime Panel for Lancashire must consider every new complaint received in relation to the conduct of the Police and Crime commissioner or the Deputy Police and Crime Commissioner. The Police and Crime Panel have been given specific functions under the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 as

to the handling and determination of complaints against the PCC or Deputy PCC. The decision as to whether a complaint is unreasonable, unreasonably persistent and/or vexatious, is taken by the Police and Crime Panel. The decision of the Police and Crime Panel is final.

8. What about dealing with complainants who are unreasonably persistent or vexatious in the future?

8.1 Even though an individual has made complaints that were unreasonable, unreasonably persistent and/or vexatious in the past, it cannot be assumed that their future complaints will be made in the same manner. If a new complaint, on a separate matter, is received it must be treated on its merits and, in such cases, the Director or the lead officer for Governance should review the situation before deciding whether it would be reasonable to limit the point of contact to a named officer and specify the method of communication which the complainant should use.

9. Safety and Welfare of Staff

9.1 Where a complainant's behaviour is so extreme that it threatens the immediate safety and/or welfare of the PCC's staff, the Director or the lead officer for Governance will consider other options, for example reporting the matter to the Police or taking legal action. Such incidents should be logged appropriately in the central database.

10 References

10.1 This policy has been prepared having had regard to the following:

Local Government Ombudsman guidance

Police Reform Act 2002

Information Commissioners Office – Vexatious and Repeated Requests Guidance

The Police Reform and Social Responsibility Act 2011

The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2011

Independent Police Complaints Commission Statutory Guidance 2020

The Police (Complaints and Misconduct) Regulations 2020

REVIEW DATE

1 April 2023