

**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. The IOPC deal with reviews (appeal) in relation to recorded 'no investigation' complaints against the Chief Constable.

14.15. ~~Since 22 November 2012 the~~The IOPC deal with any reviews (appeals) against ~~non-recorded~~any complaints that have been recorded and investigated, ~~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.

15.16. ~~The Police and Crime Commissioner deals with reviews resulting from recorded 'no investigation' complaints dealt with by Lancashire Constabulary. 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-review files randomly selected from those concluded by the ~~Constabulary.~~IOPC or PCC.

## The number of completed complaint files to be inspected

complaint files in relation to complaints against the Chief Constable – All

complaints concluded outside of schedule 3 (service recovery) – 4 (four)

complaints concluded by way of recorded – no investigation – 4 (four)

complaints concluded by way of recorded – investigation – 4 (four)

complaints concluded by way of review by the OPCC – 4 (four)

## Completed Misconduct and Grievance Cases

16.17. 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.

17.18. 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.

19. 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

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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).

#### Violence Against Women and Girls (VAWG)

20. Following the publication of Her Majesty's Inspectorate of Constabularies, Fire and Rescue Services Interim Report on Tackling Violence Against Women and Girls (VAWG), the Home Secretary published the Government's new strategy to ensure women and girls are safe everywhere - at home, online and on the streets.

21. In response to a subsequent super-complaint made by the Centre for Women's Justice around Police Perpetrated Domestic Abuse, the Head of the Professional Standards Department has reviewed practices in relation to complaints and allegations relating to abuse of position for sexual purposes and domestic abuse where the perpetrator was a member of staff and is confident that the Constabulary have appropriate internal scrutiny in place. However, the Head of Professional Standards would welcome additional independent oversight to maintain and build trust in Lancashire Constabulary.

22. Accordingly, a dip-sampling exercise will be undertaken every six months to review cases relating to abuse of position for sexual purposes and domestic abuse where the perpetrator was a police officer or member of police staff.

#### **Case Sample Outcomes**

18-23. 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.

19-24. This protocol is therefore intended to help

- provide public reassurance about the integrity, effectiveness and efficiency of policing in Lancashire;

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- 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

~~20-25.~~ 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.

~~24-26.~~ 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.

~~22-27.~~ The Police & Crime Commissioner may then wish to raise the matter with the Chief Constable who will respond, as appropriate, with advice and explanations.

~~23-28.~~ 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.

**Checklist for Case Sampling Complaint Files**

	<u>Area to Review</u>	<u>Checks to Make</u>	<u>Service Recovery</u>	<u>No Investigation</u>	<u>Investigation</u>
<u>1</u>	<u>Initial Assessment</u>	<u>Clear initial assessment and documented?</u>			
<u>2</u>	<u>Acknowledgement of receipt of complaint</u>	<u>Timely contact with the complainant and investigating officer identified.</u>			
<u>3</u>	<u>Telephone Call Complaint Form / Letter</u>	<u>Was the form completed correctly/does the letter contain sufficient information (recorded matters only)?</u>			
<u>4</u>	<u>Keeping complainant informed</u>	<u>Was acknowledgement of receipt sent to the complainant and that they were kept informed on an ongoing basis?</u>			
<u>5</u>	<u>Officer/staff member subject of complaint</u>	<u>Is there evidence to show how the officer was informed of the complaint and kept informed on an ongoing basis?</u>			
<u>6</u>	<u>Withdrawal</u>	<u>Is this fully documented?</u>			
<u>7</u>	<u>Time taken to complete</u>	<u>Has a reasonable amount of time been taken to complete the investigation?</u> <b>Complaint Timescales</b> Outside Schedule 3 – <b>between 3 to 28 days</b> Recorded – No Investigation - <b>28 days</b> Recorded –Investigation - <b>120 days</b>			
<u>8</u>	<u>Justification of the outcome of the complaint process</u>	<u>Has the reasonable and proportionate approach been appropriate and conclusion supported by evidence?</u>			
<u>9</u>	<u>Final response to the complainant and the officer</u>	<u>Was the final response timely, responsive and conclusive?</u>			

		<u>Did it identify the right of review?</u>			
<u>10</u>	<u>Officer improvement</u>	<u>Was Reflective Practice Review Process (RPRP) and/or Practice Requires Improvement (PRI) identified and actioned?</u>			

**Checklist for Case Sampling Review Files**

	<u>Area to Review</u>	<u>Checks to Make</u>
<u>1</u>	<u>Initial Assessment of Review</u>	<u>Is it clear that an initial assessment was made of the Review and recorded?</u>
<u>2</u>	<u>Review letter/form</u>	<u>Was sufficient information provided as to the nature of the review?</u>
<u>3</u>	<u>Acknowledgement of receipt of Review</u>	<u>Letter to complainant – timely and responsive? Is investigating officer identified to complainant?</u>
<u>4</u>	<u>Keeping complainant informed</u>	<u>Was acknowledgement of receipt sent to the complainant and that they were kept informed on an ongoing basis (usually every 28 days)?</u>
<u>5</u>	<u>Officer/staff member subject of complaint</u>	<u>Is there evidence to show how the officer was informed of the complaint and kept informed on an ongoing basis?</u>
<u>6</u>	<u>Time taken to complete</u>	<u>Has a reasonable amount of time been taken to complete the Review? (There are no Review timescales within the legislation or guidance.)</u>  <b><u>Review Timescales</u></b> <b><u>Review decision xxxxxx</u></b> <b><u>Re-Investigations - 120 days</u></b>
<u>7</u>	<u>Justification of the outcome of the Review process</u>	<u>Has the approach, review and conclusion been appropriate and supported by evidence?</u>
<u>8</u>	<u>Final response to the complainant and the officer re the outcome of the Review</u>	<u>Were the final responses timely, responsive and conclusive? Did it identify to the complainant any right of further appeal?</u>