

Here is the policy followed by the equality impact assessment

Leicestershire Police Authority

Procedure for Dealing with Complaints Against ACPO Officers

NOTE:

- (a) Any reference in this document in bold type to a
- **section** is a reference to the Police Reform Act 2002 ("PRA02");
 - **paragraph** is to Schedule 3 of PRA02;
 - **regulation** is to either the Police (Complaints and Misconduct) Regulations 2004 ("PCMR04") or the Police (Conduct) Regulations 2008 ("PCR08"); and
 - **page** is to the Independent Police Complaints Commission ("IPCC") Statutory Guidance (November 2005 version).
- (b) "Relevant Officer" in this document refers to the officer whose conduct is the subject of a complaint or conduct matter.
- (c) "Complainant" in this document includes references to an interested person where appropriate.

Background

1. Under Part 2 of the PRA02, the Police Authority has responsibility for dealing with complaints and conduct matters concerning its Assistant Chief Constables, Deputy Chief Constable and Chief Constable. The Police Authority has delegated all relevant powers under these provisions to be determined by the Professional Standards Committee. The legal framework only recognises complaints and conduct matters that are personal to the actions of the Relevant Officer. Thus one of the key aspects with regard to any allegation is to determine whether or not it involves the personal conduct of the Relevant Officer. The framework does not relate to the direction and control of a Police Force by such officers. "Direction and Control" is defined in Home Office Circular 19/2005 and the policy entitled "Direction and Control: May – June 2005" adopted by the Authority by minute 27/05 of 2 June 2005 (Complaints and Discipline Committee).
2. Even if the allegation does concern personal conduct of the Relevant Officer, the framework under the PRA02 distinguishes a "Complaint" from a "Conduct Matter". Both terms are defined in **section 12** of the PRA02. A person making a complaint is a complainant [**section 12**]. The PRA02 also recognises that other persons may have an interest in being kept informed about a complaint or conduct matter. It calls these "interested persons" [**section 21**].

Stage 1 – Initial Steps

3. The first stage upon receipt of any complaint or conduct matter involves the determination of questions set out in Table 1 below. The Chief Executive will determine the matters set out in Table 1. If the matter is not to proceed to Committee, the Chief Executive will discuss the issues involved, and the decision, with the Committee Chairman.
4. In order to determine these questions it may be necessary to make some initial enquiries relating to the matter. In doing so, the Chief Executive may ask for brief comments from the Chief Constable or other suitable senior officer so that the potential gravity of the situation is evident.

Table 1 – Stage 1 Steps

- (a) Upon receipt of any allegation the first stage issues involve the determination of the following questions:
- Has the allegation some credence (if the allegation is trivial and lacks evidence it should be promptly rejected)?
 - Is the allegation a complaint **[section 12]**?
 - Is it from a person listed as able to make a complaint **[sections 12 and 29(4)]**?
 - Is Leicestershire Police Authority the appropriate Authority **[section 29]**?
 - Is it a direction and control matter **[section 14]**?
 - If not a complaint, is it a conduct matter **[section 12]** and if so, is it a conduct matter under **paragraph 10 or 11**?
 - If arising through **paragraph 11**, does it satisfy all the strict provisions of **paragraph 11**?
- (b) The obligation to obtain or preserve evidence **[paragraph 1(1) and 12(1)]** must also be addressed. Note that this is a continuing duty throughout the handling of the complaint or conduct matter.

5. Unless to do so might prejudice the fair determination of the matter, the Chief Executive will copy the complaint or conduct matter to the Relevant Officer or notify him/her of its substance. The Chief Executive will acknowledge safe receipt of the matter as appropriate. The Chief Executive will also send the Relevant Officer and Complainant a copy of this procedure at an early stage.
6. If the matter is neither a complaint nor a conduct matter or if it is a complaint but not received from someone able to make a complaint, the Chief Executive will write to the Complainant explaining this. The Chief Executive will also write to the Relevant Officer. If the matter is a direction and control matter, it will be dealt with under the Authority's policy on direction and control matters made pursuant to Home Office Circular 19/2005. The Chief Executive will write to the Complainant explaining this, and write to the Relevant Officer.
7. If the Leicestershire Police Authority is not the "appropriate authority" the Chief Executive will forward the matter to the appropriate authority.
8. If the allegation constitutes a legitimate complaint made by a person able to complain, the Police Authority has a duty to record it. If the allegation constitutes a legitimate conduct matter, the Police Authority has a duty to record it. The decision to record and the decision about subsequent steps will be dealt with by the Professional Standards Committee.

Stage 2 – Professional Standards Committee Initial Meeting

9. Being satisfied of the matters contained in Table 1 above, the Chief Executive will convene a meeting of the Professional Standards Committee as soon as practicable to determine the recording of the complaint or conduct matter and to decide what next steps should be taken. Slightly different rules apply to Complaints than to Conduct Matters. Paragraphs 10-16 in this document deal with Complaints; paragraphs 10-11 and 17-19 with Conduct Matters.

10. The Chief Executive will prepare a written report for the Professional Standards Committee, which shall, unless urgency dictates otherwise, be circulated to members of the Committee 5 clear days before the meeting. In view of the fact that the matter will involve personal information either of the Complainant or the Relevant Officer, and will likely involve the provision of legal advice, the report will be for consideration in the exempt part of the agenda. If so, in view of the personal and potentially sensitive nature of the information, the report will not be circulated to anyone other than the members of the Committee. (Hence other members of the Authority and other senior officers in the organisation, who usually receive copies of exempt reports, will not receive this report).
11. The Chief Executive will notify the Complainant and the Relevant Officer of the date on which the Professional Standards Committee will meet to consider the matter. If the Relevant Officer or Complainant makes representations at this stage to the Committee in writing, such representations shall be disclosed to the Investigating Officer if an investigation subsequently takes place.
12. The options open to the Committee dealing with a Complaint are set out in table 2.

Table 2 – Dealing with a Complaint	
(a)	The Committee will decide whether or not to record the matter. If a complaint is not recorded a Complainant (but not an interested person) has a right of appeal to the IPCC [paragraph 3] .
(b)	Where the complaint is of a serious or exceptional nature [paragraph 4(1)] , the Authority must refer the complaint to the IPCC. Similarly, it must do so if the IPCC so requests [paragraph 4(2)] . Responsibility for dealing with the complaint then falls to the IPCC. Sometimes the IPCC refers less serious complaints back to a Police Authority.
(c)	Subject to (b) above, the Committee, having recorded the complaint, shall decide whether to deal with it: <ul style="list-style-type: none"> • by local resolution [paragraph 6(2)]; • by voluntarily referring the matter to the IPCC [paragraph 4(2) & (3)]; • by full investigation [paragraph 16]; or • in some other way or by taking no action in respect of it [paragraph 7].

13. Local Resolution. This is normally only possible if the complainant consents. Local Resolution is only possible if the Authority is satisfied that the conduct complained of, even if proved, would not justify the bringing of criminal or disciplinary proceedings, although even if it would the IPCC can still authorise the use of local resolution **[paragraph 6(2)]**. The use of local resolution is covered in the IPCC guidance **[page 24-27]**. Frankly, it would rarely be appropriate to resolve locally a complaint made against an ACPO officer. However in some circumstances this may be correct and if the Professional Standards Committee takes this option, the Chief Executive shall appoint an appropriate person to attempt to resolve the complaint. It shall be paramount to ensure that the Complainant has freely given consent to deal with the matter in this way.
14. Voluntary referral to IPCC. The complaint can be referred to the IPCC on specified grounds, even where there was no obligation so to do. The IPCC may refer the matter back to the Authority or supervise the investigation of the matter or manage the investigation of the matter or undertake the investigation itself **[paragraphs 17-19]**.
15. Full investigation. If the Authority decides to deal with the complaint by full investigation it shall appoint a police officer to investigate the matter. The officer must not be a

person under the direction and control of the Relevant Officer **[paragraph 16(4)]**. Nor shall the officer appointed be of less rank than the Relevant Officer. The Terms of Reference for the investigation will need to be determined. The initial decision to undertake an investigation will be made by the Committee. All subsequent determinations flowing from that principal decision shall be the responsibility of the Chief Executive.

16. Some other way. If the Authority decides to deal with the complaint in some other way, or to take no action in respect of it, the Authority must obtain a dispensation from the IPCC. Such dispensation is only available if the type of complaint falls within a list prescribed by regulations **[paragraph 7(1) and regulation 3 PCMR04]**. If the Committee propose to take further action, the Relevant Officer shall be able to make oral or written representations personally or by his/her representative.
17. Dealing with a conduct matter concerns fewer options for the Committee. If the issue has arisen from civil proceedings pursuant to **paragraph 10** or arisen in another way that falls within **paragraph 11**, the Committee must consider the matters in table 3.

Table 3 – Handling a Conduct Matter	
(a)	The Committee will decide whether or not to record the matter. If a conduct matter is not recorded there is no right of appeal by an interested person. However the IPCC can insist that a paragraph 11 matter be recorded [paragraph 11(5)] .
(b)	If it records the conduct matter, the Committee shall deal with the matter in one of three ways: <ul style="list-style-type: none">• refer the matter to the IPCC because it must [paragraph 10(4)(a), 11(3)(a) and 13(1)]; or• refer the matter to the IPCC even though not obliged to do so [paragraph 10(4)(a), 11(3)(a) and 13(2)]; or• deal with the matter as it sees fit [paragraph 10(4)(b) and 11(3)(b)].

18. Therefore there is no Local Resolution procedure involved in conduct matters, nor any IPCC dispensation required provided there is no obligation or desire to refer the matter to the IPCC.
19. If the matter is referred to the IPCC, it may hand the matter back to the Authority or take another role as mentioned in paragraph 13 of this procedure. If the matter is not referred to the IPCC but the Committee proposes to take further action, the Committee shall be re-convened on a subsequent occasion to determine the Conduct Matter. The Relevant Officer shall be able to make oral or written representations personally or by his/her representative at the re-convened meeting.
20. Whether the allegation involves a complaint or a conduct matter, the Chief Executive shall be responsible for keeping the Complainant and Relevant Officer up to date with progress.

This procedure will be reviewed from time to time and in any event no later than June 2012.

Professional Standards Committee agreed this procedure on 15 December 2008 (minute 44/08)

Impact Assessment

Purpose

The purpose of an Equality Impact Assessment is to work out how a policy will affect people from different groups, both externally in terms of our communities and internally in terms of our staff. This is so that we can ensure as far as possible our policies are developed in full recognition of the diverse needs, circumstances and concerns of the people who will be affected by them.

Policy Title	Review of procedure for dealing with complaints against ACPO officers	
Version	Appendix 2, paper E, Professional Standards Committee 15 December 2008	
Publication	Yes, this will be published	Affects persons External to the organisation
Policy Owner	Police Authority	R Swinfield
Date Impact assessment completed	2 December 2008	
Policy Review Date	June 2012	
Impact Assessment Author	R Swinfield	

Summary Overview

This procedure relates to cases involving the legal power of the Police Authority to handle complaints against Senior Police Officers. The procedure is governed by statutory provision. The procedure does not therefore promote equality of opportunity or promote good relations between different groups. The procedure itself does not impact upon disabled people in general. However in dealing with a particular case there is scope for discrimination either in respect of the officer the subject of the complaint, or of the complainant.

The initial stage of the procedure is for the complaint to be notified to the Chief Executive who will perform a gate-keeping role to ensure the complaint is within the rules. The Chief Executive will then convene a meeting of the committee who will determine how they wish the complaint to be dealt with either by an investigation, a local resolution, some other action or no action. The procedure does not envisage the complainant will make representations personally to the committee. In the most serious cases any result of any investigation is likely to proceed to a misconduct route, which is a matter not addressed by this particular procedure.

Section 1: Screening for Relevance to Equality

Section 1 should be completed for all policies.¹

On the basis of existing knowledge, data, and best estimates does this policy have an adverse impact on any of the following 4 areas:

¹ Note: A policy may be defined as a set of principles or a criterion an organisation develops to help carry out its functions as such, procedures and guidance is included also.

(Please tick those areas in which there is adverse impact or potential for it.)

Area 1: Promote Equality of Opportunity					
Age	Disability	Gender	Race / Ethnicity	Religion / Belief	Sexual Orientation
Area 2: Eliminate Discrimination and Harassment					
Age	Disability	Gender	Race / Ethnicity	Religion / Belief	Sexual Orientation
✓	✓	✓	✓	✓	✓
Area 3: Promote Good Relations Between Different Groups					
Age	Disability	Gender	Race / Ethnicity	Religion / Belief	Sexual Orientation
Area 4: Does the Policy Impact on Disabled People?					
Yes No ✓					
If YES, and to comply with legislation, please answer the following:					
Have measures been taken to meet the needs of disabled people (even if this requires more favourable treatment)? Please answer here:					
Does the policy encourage participation by disabled people? Yes No					
Please summarise the findings by source:					
Please answer here:					

If there is no evidence of adverse impact to equality issues highlighted in any of the 6 equality strands above and the research data supports this, there is no need to complete the rest of this template. However, if the screening assessment shows there to be an adverse impact in any of the areas a full impact assessment will be required. You will need to complete the rest of this template. Please determine whether this policy is one that is deemed high, medium or low priority².

High Medium Low ✓

Section 2: Full Impact assessment

<p>Identify the aims and proposed outcomes of the policy? Please answer here:</p> <p>To treat fairly all persons subjected to these legal provisions, both complainant and accused officer.</p>
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High: Policies which have an impact on three of the four areas of Section1 (Promote Equality of Opportunity; Eliminate Discrimination and Harassment; Promote Good Relations Between Different Groups; Does the Policy Impact on Disabled People) and where there are concerns.

Medium: Policies which only apply to two of the areas of the general duty.

Low: Policies which may have an impact on one of the general duties, but which monitoring has not indicated issues of concern.

Note High priority policies require a full impact assessment within a 6 month period, medium in 12 months and low in 18 months.

Is the policy being monitored? If no monitoring is taking place, please state what will be implemented?

Please answer here:

Complaints against ACPO officers arise relatively rarely.

What monitoring data/ information/research has been considered?

Please answer here:

None.

Age	
Gender	
Disability	
Race/ Ethnicity	
Religion / Belief	
Sexual Orientation	

What gaps in the monitoring data/ information/research have been identified?

(Note if gaps have been identified consideration should be given to commissioning new research)

Please answer here:

None.

Age	
Gender	
Disability	
Race/ Ethnicity	
Religion / Belief	
Sexual Orientation	

From the monitoring data/ information/research has any adverse impact been identified?

Please answer here:

Not applicable.

Age	
Gender	
Disability	

Race/ Ethnicity
Religion / Belief
Sexual Orientation

Are there any factors that can explain or justify this adverse impact?

Please answer here:

Not Applicable.

Has the policy been subject to consultation? If no, please state why. If yes, please state who, how, outcomes and what the process of feedback was to consultees.

Please answer here:

This procedure has been subject to consultation with the Constabulary. There has been no consultation with diversity groups as it was felt this was not proportionate.

Outline any findings/outcomes of this impact assessment.

Please answer here:

Not applicable.

Recommendations from assessment is: (please delete as appropriate)

- A. **Policy maintained in current form** Please justify why especially if there is a possibility of adverse impact.
- B. **Policy amended** Please summarise the amendments.
- C. **Policy abandoned** Please state how the implications will be managed.

Please answer here:

- A. No adverse impact.

Any other comments: