

**CHIEF CONSTABLE COMPLAINTS**

**POLICY**

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| 0.1 | 01/10/23 | Joanne Regan, Head of Assurance & Compliance | First draft of policy & procedure created, highlighting the relevant parts of the statutory guidance that needs to be followed at each stage of a complaint. |
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**OFFICE OF THE POLICE AND CRIME COMMISSIONER**

**CHIEF CONSTABLE COMPLAINT POLICY AND PROCEDURE**

1. **Introduction**
   1. The Office of the Police and Crime Commissioner (OPCC) for Gwent has a statutory duty to receive and consider complaints made against the Chief Constable (CC) of Gwent Police.
   2. The Police and Crime Commissioner (PCC) is the Appropriate Authority (AA) to deal with these complaints, but, within Gwent, the role of the AA has been delegated to the Chief Executive (CEx) who is supported by the Head of Assurance and Compliance (HoAC).
2. **Aim** 
   1. This policy aims to improve public confidence in the handling of complaints against the CC by ensuring there is a Gwent specific process in place for staff dealing with these complaints and that it is supported by and links to the statutory guidance issued by the Independent Office for Police Conduct (IOPC).
3. **Terms and Definitions**

**Appropriate Authority (AA):** A person within an organisation who has responsibility for dealing with complaints. The Appropriate Authority within the OPCC deals with complaints against the CC. Complaints against officers or staff members of Deputy Chief Constable rank or below are dealt with by the Appropriate Authority for Gwent Police who is based within the Professional Standards Department.

**Complaint**: A complaint is any expression of dissatisfaction with a police force that is expressed by or on behalf of a member of the public. It must be made by a person who meets the definition of a complainant (see paragraph 5.6 of the IOPC Statutory Guidance). A complaint does not have to be made in writing, nor must it explicitly state that it is a complaint for it to be considered as one.

**Independent Office for Police Conduct:** The IOPC are an organisation independent of both the police and government. They oversee the police complaints system in England and Wales and set the standards by which complaints should be dealt with.

**Adversely Affected:** A person will be considered to have been adversely affected if they have suffered any form of loss, damage, distress or inconvenience as a result of the matter complained about, if they have been put in danger or otherwise unduly put at risk of being adversely affected.

**Logging and Recording of Complaints:** The term ‘logging’ is used to mean capturing data about a complaint on a case management system. It has been introduced to differentiate from ‘recording’ a complaint, which refers to recording under Schedule 3 of the Police Reform Act 2002 (PRA).

1. **Policy**

**4.1 Making a Complaint**

4.1.1 The IOPC Statutory Guidance paragraphs 5.3 and 5.4 state that “*A complaint can be made about any matter which has had an adverse effect on the person making the complaint (or, where the complaint is about the conduct of an individual, that they have witnessed or which happened to them).*

4.1.2 A serving police officer is not able to make a complaint[[1]](#footnote-1). If they have concerns to raise there are more appropriate channels for these to be considered.

**4.2 Complaints Made on Someone Else’s Behalf**

4.2.1 A person is able to appoint someone to act on their behalf when making a complaint. The person could be a family member, friend, legal representative or any other person of their choosing. The appointed person must have, and be able to produce, the written consent of the person on whose behalf they are acting. A young person under 16 should not normally need to provide written permission for a parent or guardian to act for them in this manner.

**4.3 Validity of Complaint**

4.3.1 When a complaint is received by the OPCC, the HoAC will consider the content and will determine if it meets the criteria required for the complaint to be valid, as set out within the IOPC Statutory Guidance[[2]](#footnote-2). The complainant will be contacted to acknowledge receipt and explain the next steps or, an explanation will be provided as to why the complaint is not valid.

4.3.2 If the complaint made against the CC is deemed to be valid, the CC will also be informed of the complaint, unless to do so might prejudice any criminal investigation; and/or is otherwise contrary to the public interest.

4.3.3 Where necessary, the OPCC may liaise with other parties (including, but not limited to, the CC’s office, officers or staff at Gwent Police and third-party organisations) in order to determine details relating to the complaint matter.

**4.4 Transferring Complaints Against Other Officers**

4.4.1 There will be times where a complaint names the CC, but the complaint relates to a matter where authority has been delegated to another officer or staff member within the force. In these instances, where it is clear that the CC has not been involved, the matter will be passed to the PSD in order for the complaint to be considered further. If it is unclear whether or not the CC has been involved in the matters raised, contact must be made with the complainant to explore their concerns further. If CC involvement is still not clear, the complaint should be logged and explored further by the complaint handler[[3]](#footnote-3).

4.4.2 Sometimes a matter may involve more than one AA even though it concerns people who are all in the same force. If we receive a complaint against the CC that also makes reference to other officers or staff members of Gwent Police, the complaint will also be passed to PSD. The OPCC will only deal with the complaint relating to the CC.

4.4.3 In situations where the complaint is passed to a different AA, the complainant will be informed and an explanation provided. There is no requirement in the Police Reform Act 2002 for consent to be obtained from the complainant before forwarding a complaint. In certain circumstances, particularly if the complaint contains sensitive information, the complainant will be informed that the complaint will be passed on prior to doing so.

**4.5 Complaints that can be Resolved Quickly**

4.5.1 A complaint will be logged if it is considered low level and can be resolved quickly and to the complainant’s satisfaction and does not meet the requirements for the AA to record it. These can be referred to as non-schedule 3 complaints.

4.5.2 Complaints handed in this way are likely to be ones where the complainant wants an explanation, or for their concerns to be listened to, passed on, and addressed and could include one of more of the following actions being taken:

* The OPCC provides information and an explanation that the complainant is satisfied with.
* An update is provided on outstanding matters.
* An apology is offered for poor service.
* Confirmation is provided of the steps that have been taken to prevent further error.
* Concerns are logged for consideration when a policy or procedure is next due for review.

4.5.3 If, however, at any point it appears that remedying the matter to the satisfaction of the complainant cannot be achieved in a timely manner, or without substantial additional steps being taken, the complainant can ask for their complaint to be handled under the legislation concerning police complaints and police misconduct.  This means that it must then be recorded and dealt with according to formal rules and guidance, and a right to a review of that handling is available if the complainant remains dissatisfied with the outcome.

**4.6 Recording a Complaint**

4.6.1 Complaints that require additional steps to resolve, or that meet certain criteria as set out in paragraphs 6.34 to 6.36 of the IOPC Statutory Guidance, are likely to qualify for handling under legislation concerning police complaints and police misconduct (the Police Reform Act 2002, Schedule 3). These can be referred to as schedule 3 complaints.

4.6.2 Recorded complaints will either be handled by the OPCC, or by the IOPC, depending on the matter complained about.

4.6.3 The way in which the complaint is handled must be reasonable and proportionate to the matter in question.  Depending on the circumstances, this may mean:

* an investigation of the matter.
* seeking to resolve concerns in another way.
* on occasion, informing the complainant that no further action will be taken.

4.6.4 The term ‘reasonable and proportionate’ is explained in police complaints legislation as:*Doing what is appropriate in the circumstances, taking into account the facts of the matter and the context in which it has been raised within the framework of legislation and guidance, weighing up the matter’s seriousness and its potential for learning, against the efficient use of policing resources*.

4.6.5 The ‘reasonable and proportionate’ approach relates to all aspects of the complaint handling process.

**4.7 Complaints that must be Referred to the IOPC**

4.7.1We are required to refer all qualifying complaints about the CC to the IOPC which will decide whether the matter should be investigated. The complainant will be notified when such a referral is made.

4.7.2 Complaints which will be referred to the IOPC are listed below:

* relate to any incident or circumstances in or in consequence of which a person has died or suffered serious injury.
* the IOPC notifies the appropriate authority that it must refer.
* a serious assault.
* a serious sexual offence.
* serious corruption, including abuse of position for a sexual purpose or for the purpose of pursuing an improper emotional relationship.
* a criminal offence or behaviour which is liable to lead to disciplinary proceedings and which, in either case, is aggravated by discriminatory behaviour on the grounds of a person’s race, sex, religion or other status as identified in the IOPC Statutory Guidance.
* a relevant offence.
* complaints or conduct matters arising from the same incident as one where conduct falling within the above criteria is alleged.
* any conduct matter or complaint relating to a CC where the AA is unable to satisfy itself, from the complaint alone, that the conduct complained of, if it were proved, would not justify the bringing of criminal or disciplinary proceedings.
* the gravity of the subject matter is considered by the AA to warrant referral.

(please see chapter 9 of the IOPC Statutory Guidance for definitions of the above).

4.7.3 The AA can seek the IOPC’s advice about whether a matter meets the threshold for referral.

4.7.4 Where a matter involves the actions of both the CC and other persons serving with the police, each AA will (where appropriate) need to make separate referrals.

4.7.5 If the IOPC decide that the matter should be investigated, then they will determine how it is investigated.  For the CC this will be either a directed investigation (where the IOPC will oversee an investigation undertaken by an appropriate person from another police force or the National Crime Agency) or an independent investigation (an investigation carried out by the IOPC themselves). If the IOPC undertake the investigation, they are responsible for providing the complainant with updates on progress of the complaint.

4.7.6 If they decide that a matter does not need to be investigated by an outside body, then the complaint will be referred back to the OPCC to handle.

* 1. **Complaint Handling**

4.8.1 As soon as possible after receiving a complaint, the OPCC will acknowledge receipt and keep the complainant informed of progress. At the same time, clarification will be sought to ensure that the complaint is properly understood. The OPCC will obtain the complainant’s views on how the complaint should be handled, the outcome they want and any adjustments that may be required to enable them to participate effectively in the process.

4.8.2 The OPCC will then inform the complainant if their complaint has been recorded. If it has been recorded a copy of the complaint wording will be provided as well as information on how a request for a review of the complaint can be made once the outcome letter has been received.

4.8.3 Sometimes, the outcome the complainant is looking for may not be possible or may not be reasonable or proportionate.  If it becomes apparent that the outcome of a complaint is unlikely to meet their expectations, the OPCC will contact the complainant promptly to explain the reason for this.

4.8.4 Similarly, when it is decided that no further action will be taken in respect of a complaint, a clear rationale must be provided for this approach.

**4.9 Keeping the Complainant and Chief Constable Updated**

4.9.1 During the handling of the recorded complaint, both the complainant and CC must be kept updated in writing. This should be done via the same method by which the complaint was originally made.

4.9.2 An update should be sent every 28 days from the last contact with the complainant and a further update provided every 28 days thereafter until the outcome letter has been sent. When updating the complainant, the Chief Constable should also be updated on how the complaint is progressing.

* 1. **Complaint Outcome**
     1. The outcome of a complaint must be provided in writing. This will include an explanation of how the matter has been handled, the actions taken, the findings, and the outcome.
     2. The outcome will also contain details about the complainant’s right to a review.

**4.11 Right to Review**

4.11.1 A right to review of the handling and outcome of a complaint can only be offered if the complaint has been recorded under Schedule 3 to the Police Reform Act 2002.

4.11.2 The review will consider whether the handling of the complaint and the outcome provided was reasonable and proportionate. The IOPC is the review body for all recorded CC complaints.

1. **Training**

5.1 Any member of OPCC staff who is required to make decisions on a complaint relating to the CC will be provided with relevant training.

5.2 Those with access to the complaints system on which CC complaints must be logged will be shown how to use the system and be provided with instructions.

1. **Monitoring**
   1. The CEx is responsible for the CC complaints process although the HoAC will ensure this policy is updated to reflect any changes as appropriate.
2. **Consultation**
   1. The CEx has been consulted on this procedure. It has also been presented to the Planning and Performance Meeting as part of the consultation process.
3. **Associated Documentation**

* IOPC Statutory Guidance on the Police Complaints System
* IOPC Focus Issue 16 – Handling allegations about the chief officer
* The Police (Complaints and Misconduct) Regulations 2020
* Policing and Crime Act 2017
* Police Reform and Social Responsibility Act 2011
* Police Reform Act 2002

1. **Dissemination**
   1. All those directly involved in the review process have been consulted during the drafting of this procedure and are aware of its location.
2. **Review Period**
   1. This procedure will be reviewed by the HoAC when appropriate, but no less frequently than every 4 years.
3. **Appendices**

11.1 None

1. For more information about someone’s eligibility to complain, please see paragraphs 5.3–5.6 of the IOPC Statutory Guidance. [↑](#footnote-ref-1)
2. See Chapter 5 of the IOPC Statutory Guidance. [↑](#footnote-ref-2)
3. IOPC Focus Issue 16 – Handling allegations about the chief officer. [↑](#footnote-ref-3)