

DECISION NO: PCCG-2012-014

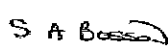
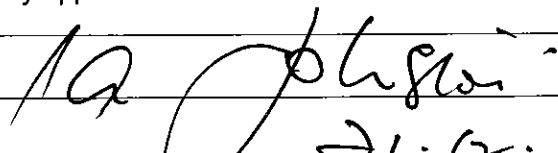
OFFICE OF POLICE AND CRIME COMMISSIONER**TITLE: Complaints Protocol and Procedure for Dip Sampling of Complaints****DATE: 13th December 2012****TIMING: For Strategy and Performance Board****PURPOSE: For Decision**

1.	<u>RECOMMENDATION</u> That the protocol on complaints and the procedure for dip sampling complaints are approved.
2.	<u>INTRODUCTION & BACKGROUND</u> The statutory requirements and roles relating to the handling of complaints are set out in the Police Reform Act (PRA) 2002 and the Police Reform and Social Responsibility Act (PRSRA) 2011. The PRSRA has introduced major changes to the police complaints system and has been designed to streamline and remove unnecessary bureaucracy from the system, ensure that complaints are handled at the lowest appropriate level, and focus more on putting right the complaint made by a member of the public. The policing protocol sets out the respective roles of the Chief Constable and the Police and Crime Commissioner and highlights that the Commissioner is responsible for the totality of policing and has a mandate to hold the Chief Constable to account for delivery of policing. The Chief Constable is charged with the impartial direction and control of all constables and staff that they lead. It also highlights that the office of constable will not be open to improper political interference and that the Commissioner must not fetter the operational independence of the Force.
3.	<u>ISSUES FOR CONSIDERATION</u> This protocol and procedure have been considered on an all Wales basis by OPCCs and Professional Standards departments. Approval of the documents by the Commissioner and Chief Constable should ensure that legal requirements are met and that there is an open and transparent method of ensuring that complaints against the Force, or individuals within the Force, are handled efficiently and effectively.
4.	<u>NEXT STEPS</u> Arrangements will be made for access to the Centurion system by the OPCC and training will be organised via the IPCC. It will also be necessary to build the monitoring reports in to the governance process.
5.	<u>FINANCIAL CONSIDERATIONS</u> There are no financial considerations relating to this report. Arrangements are being made for additional licences for the Centurion system to be used by the

	OPCC at no further cost.
6.	<u>PERSONNEL CONSIDERATIONS</u> The Senior Business Manager will need to work closely with the Professional Standards Department and training will be required to ensure that files are handled appropriately.
7.	<u>LEGAL IMPLICATIONS</u> In accordance with the provisions of the Police Reform and Social Responsibility Act 2011, the Commissioner has a statutory duty to maintain an efficient and effective police force. This includes a duty to investigate complaints regarding the Chief Constable and keep himself informed about the handling of complaints and misconduct cases considered by Gwent Police; and direct, where necessary, Chief Officers as to the handling of such complaints.
8.	<u>EQUALITIES AND HUMAN RIGHTS CONSIDERATIONS</u> This project/proposal has been considered against the general duty to promote equality, as stipulated under the Strategic Equality Plan and has been assessed not to discriminate against any particular group. Consideration has been given to requirements of the Articles contained in the European Convention on Human Rights and the Human Rights Act 1998 in preparing this report.
9.	<u>RISK</u> Risk is low subject to correct procedures being followed and lessons being learnt as a result of the processes in place.
10.	<u>PUBLIC INTEREST</u> This is a public report. It is in the interest of both the Office of the Chief Constable and Office of the Police and Crime Commissioner to increase public trust and confidence in the complaints system and the way in which it is adhered to within Gwent.
11.	<u>CONTACT OFFICER</u> Siân Curley, Senior Business Manager
12.	<u>ANNEXES</u> Complaints protocol Complaints Procedure for Dip Sampling

For OPCC use only

Consultation:	Tick to confirm (if applicable)
Financial The Treasurer has been consulted on this proposal.	√
OPCC (insert name) The Chief Executive has reviewed the request and is satisfied that it is correct and consistent with the PCC's plans and priorities.	√
Legal The legal team have been consulted on this proposal.	√
Equalities The Equalities Officer has been consulted on this proposal.	√

Chief Executive/ Deputy Chief Executive: I have been consulted about the proposal and can confirm that financial, legal, equalities etc... advice has been taken into account in the preparation of this report. I am satisfied that this is an appropriate report to be submitted to the Police and Crime Commissioner for Gwent.	
Signature: 	
Date: 09/12/12	
Police and Crime Commissioner for Gwent I confirm that I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with the Code of Conduct. The above request has my approval.	
Signature: 	
Date: 21.12.12	

**Office of the Police and Crime Commissioner for Gwent and Gwent
Police**

Joint Protocol

Review of Closed Case Complaints Files

(Dip Sampling)

Introduction

In accordance with the provisions of the Police Reform and Social Responsibility Act 2011, the Police and Crime Commissioner for Gwent ("the Commissioner") has a statutory duty to maintain an efficient and effective police force.

This includes a duty to:

- keep himself/herself informed about the handling of complaints and misconduct cases considered by Gwent Police (GP); and
- direct, where necessary, Chief Officers as to the handling of such complaints.

The Commissioner is expected to comply with his/her duties by 'dip-sampling' closed GP complaints and misconduct cases.

This protocol relates only to the obligation to dip sample closed complaints files and does not cover either the duty to oversee ongoing complaints or the new wider power of direction of the handling of complaints against the police as prescribed by the Local Policing Protocol Order 2011.

Purpose

The role of dip sampling is to scrutinise the performance of the Force's complaints management process. The volume of police complaints files that are handled by the Professional Standards Department of GP dictates that it would be impractical for the Commissioner to oversee every complaint and misconduct file. Dip sampling of such files enables the Commissioner to monitor files and fulfil his/her oversight responsibility. The purpose of dip sampling is not to review the conclusion reached in individual cases, but rather to undertake a general review of compliance with procedure, approaches and natural justice to ensure public confidence in the police complaints system. Dip sampling should further be used as a tool to identify learning outcomes and any other issues for discussion with GP.

Procedure

1. Number of Files to be Reviewed

Review a percentage of the total number of complaints and misconduct files handled by the PSD.

2. Frequency of Reviews

- 2.1 The criterion or criteria for the selection of files will be chosen by the Commissioner further to each quarterly meeting with the Independent Police Complaints Commission and GP in accordance with paragraph 4 below. The results of the review will be presented and discussed at subsequent meetings with the IPCC and GP.
- 2.2 Additionally, the Commissioner will conduct six monthly reviews of complaints classified as direction and control issues to ensure that they are correctly classified and to identify any trends that might provide useful feedback on force operational policies.

3. Access to Files

- 3.1 The Commissioner will have free access to files including covert investigations.
- 3.2 The Officers undertaking the review will have access to Centurion, the national police complaints management system.
- 3.3 GP will not review a file before providing it to the Commissioner. The file should be provided in the exact form that it was in when closed. To limit opportunity for any review, GP will be required to provide all selected files within 7 working days of the date of the request from the Commissioner.

4. Selection of Files and Type of Files to be Reviewed

- 4.1 The Commissioner will have complete freedom to choose the files to review from the totality of completed complaints files.
- 4.2 The Commissioner will request complaints files which have been completed throughout the previous 6 months.
- 4.3 The Commissioner will ensure that the categories and types of complaints being reviewed are representative of the total number of finalised complaints. This will enable the Commissioner to identify trends that might necessitate further thematic review or corrective action by GP.

4.4 In doing so, he/she will have regard to:

- a. The categories of complaints (e.g. locally resolved, upheld, not upheld, discontinued/disapplied, direction and control and withdrawn);
- b. The types of complaints (e.g. incivility, excessive force, neglect of duty, breach of PACE etc);
- c. Established trends or current areas of concern;
- d. The risks associated with particular complaints categories (e.g. cases managed/investigated by the IPCC would not necessarily merit review by the Commissioner).
- e. Geographic considerations (e.g. where a disproportionate number of complaints are received against officers/staff within particular Basic Command Units of GP).

4.5 Statistics presented by the IPCC at the quarterly tripartite meetings focus specifically on GP performance of complaints management and the comparison of performance with its most similar force grouping. Such statistics can be used to identify trends, areas of concern or highlight particular areas worthy of dip sampling for that particular quarter.

4.6 Subsequent to discussion at the tripartite meeting, the Commissioner will be responsible for selecting an appropriate theme or complaint area to dip sample and notify the IPCC.

4.7 The Commissioner will then use the Centurion system to select a random sample of files according to the criterion or criteria specified by the Commissioner and endorsed by the IPCC.

4.8 Once the files have been selected electronically, the Commissioner will formally request the corresponding hard copy files for review from the Head of the PSD.

5. Checks to be Performed on the Files

5.1 This protocol attaches a sample checklist for the review of completed complaints files which will be further developed in conjunction with the PSD, presented to the Commissioner for his/her comments and approval and validated by the IPCC Commissioner.

5.2 When reviewing the files, the themes that the Commissioner will consider are:

- a. Whether the complaint was dealt with by the appropriate authority under the legislation;

- b. Whether the agreed policy/process was followed and correctly documented;
- c. The degree of responsiveness of the Force to the complainant and the officer(s) involved:
 - i. Whether the investigation commenced and concluded in a reasonable time under the circumstances;
 - ii. Whether the Force communicated clearly, regularly and accurately with the complainant and the officer, gave them regular status reports and advised them of the outcomes of the investigation in the agreed timeframes;
 - iii. Whether the Force accounted for any unique needs/circumstances of the complainant or the officer(s);
- d. Whether the time and other resources devoted to the investigation were proportionate to the nature of the complaint;
- e. Whether the approach, review and conclusion is appropriate and supported by evidence;
- f. Whether any changes need to be made to improve the Force's performance in complaints management or broader areas of its operations.

6. **Role of Individuals responsible for Conducting the Review**

- 6.1 The review of the files will be undertaken by **Siân Curley, Senior Business Manager**, on behalf of the Commissioner.
- 6.2 As one of the functions of the dip-sampling process is to ensure public confidence in the complaints management process, where a member of staff responsible for undertaking the process either:
 - Has a relationship with the people or events involved in the complaint; or
 - Believes that a perception may arise that they have such a relationship

That member of staff must excuse themselves from scrutinising that particular file.

- 6.3 Such circumstances may arise where it becomes apparent that a selected complaints file highlights a complaint made against the Chief Constable of GP and/or the Commissioner and another officer, where the complaint against the Chief Constable was considered by the same member of staff undertaking the dip-sampling review and was not upheld/subject of

disapplication or where the complaint against the PCP was considered and not upheld.

- 6.4 Conversely, it will be appropriate for the designated member of staff to excuse themselves from scrutinising a complaints file where that member of staff has previously been subject of a complaint by the complainant.
- 6.5 In the event that a member of staff is precluded from undertaking dip-sampling of a particular file the **Chief Executive** will undertake a review of the file in question, and a formal declaration of the member of staff's interest/perceived interest will be recorded against the file.
- 6.6 The files selected for review will be made available at the offices of the PSD.
- 6.7 Training will be sought from the IPCC for staff of the OPCC who will have responsibility for conducting the review.
- 6.8 Where further information is required, this will be requested using a formal information request which will be directed for the attention of the Head of the PSD. A log of information requests will be kept so as to ensure that responses are received to all questions.
- 6.9 The file reviewer should not contact the Investigating Officer directly and the PSD will not be involved in the review of the file, other than to provide further information where necessary.
- 6.10 Where additional information is requested, the Commissioner may wish to delay judgment on a particular file until the required information has been provided.

7. Arrangements for Recording the Review

- 7.1 The record of the dip-sampling process will be affixed to the file permanently as evidence that the file has been reviewed. A copy of the record will be kept by the OPCC. The record will only be signed by a member of staff of the OPCC once the process is complete and there is no outstanding information or lines of enquiry.

8. Procedures for Considering the Results of the Review

- 8.1 A quarterly report on the results of the dip sampling session will be prepared and presented to the Commissioner for his/her approval. The report will then be forwarded for the attention of the IPCC and GP ahead of the quarterly tripartite meeting. The report will remain as an agenda item for discussion at each meeting.
- 8.2 The report will:

- a. Provide a record of the dip sampling completed during the relevant period;
 - b. Identify any areas of best practice highlighted by the reviews carried out;
 - c. Identify any concerns; and
 - d. Identify opportunities for learning or improvement.
- 8.3 Where the report identifies concerns or opportunities for learning or improvement, the PSD will be required to report on progress in addressing the same at forthcoming tripartite meetings with the IPCC and the Commissioner.

**Office of the Police and Crime Commissioner for Gwent and Gwent
Police**

Joint Protocol

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disapplication or where the complaint against the PCP was considered and not upheld.

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- 8.1 A quarterly report on the results of the dip sampling session will be prepared and presented to the Commissioner for his/her approval. The report will then be forwarded for the attention of the IPCC and GP ahead of the quarterly tripartite meeting. The report will remain as an agenda item for discussion at each meeting.
- 8.2 The report will:

- a. Provide a record of the dip sampling completed during the relevant period;
 - b. Identify any areas of best practice highlighted by the reviews carried out;
 - c. Identify any concerns; and
 - d. Identify opportunities for learning or improvement.
- 8.3 Where the report identifies concerns or opportunities for learning or improvement, the PSD will be required to report on progress in addressing the same at forthcoming tripartite meetings with the IPCC and the Commissioner.

COMPLAINTS PROTOCOL

AIM

To ensure that complaints against the Force, or individuals within the Force, are handled efficiently and effectively. This will improve public trust and confidence in policing and the safety of their communities.

CONTEXT

The statutory requirements and roles relating to the handling of complaints are set out in the Police Reform Act (PRA) 2002 and the Police Reform and Social Responsibility Act (PRsRA) 2011.

The PRsRA has introduced major changes to the police complaints system and has been designed to streamline and remove unnecessary bureaucracy from the system, ensure that complaints are handled at the lowest appropriate level, and focus more on putting right the complaint made by a member of the public.

The policing protocol¹ sets out the respective roles of the Chief Constable and the Police and Crime Commissioner (PCC) and highlights that the PCC is responsible for the totality of policing and has a mandate to hold the Chief Constable to account for delivery of policing. The Chief Constable is charged with the impartial direction and control of all constables and staff that they lead. It also highlights that the office of constable will not be open to improper political interference and that the police and crime commissioner must not fetter the operational independence of the Force.

The protocol also highlights that the PCC is accountable to local people and is the appropriate authority for any complaints, conduct matters, or death or serious injury matters involving the Chief Constable.

The Chief Constable is the appropriate authority for complaints and other matters concerning all officers of the Force, including chief officers.

Recognition of, and respect for these separate roles, will ensure that complaints are handled efficiently, by the appropriate authority, and will promote confidence in the system and result in reduced appeals to complaint outcomes.

PRINCIPLES

Principles to be adopted within the procedures outlined below are:

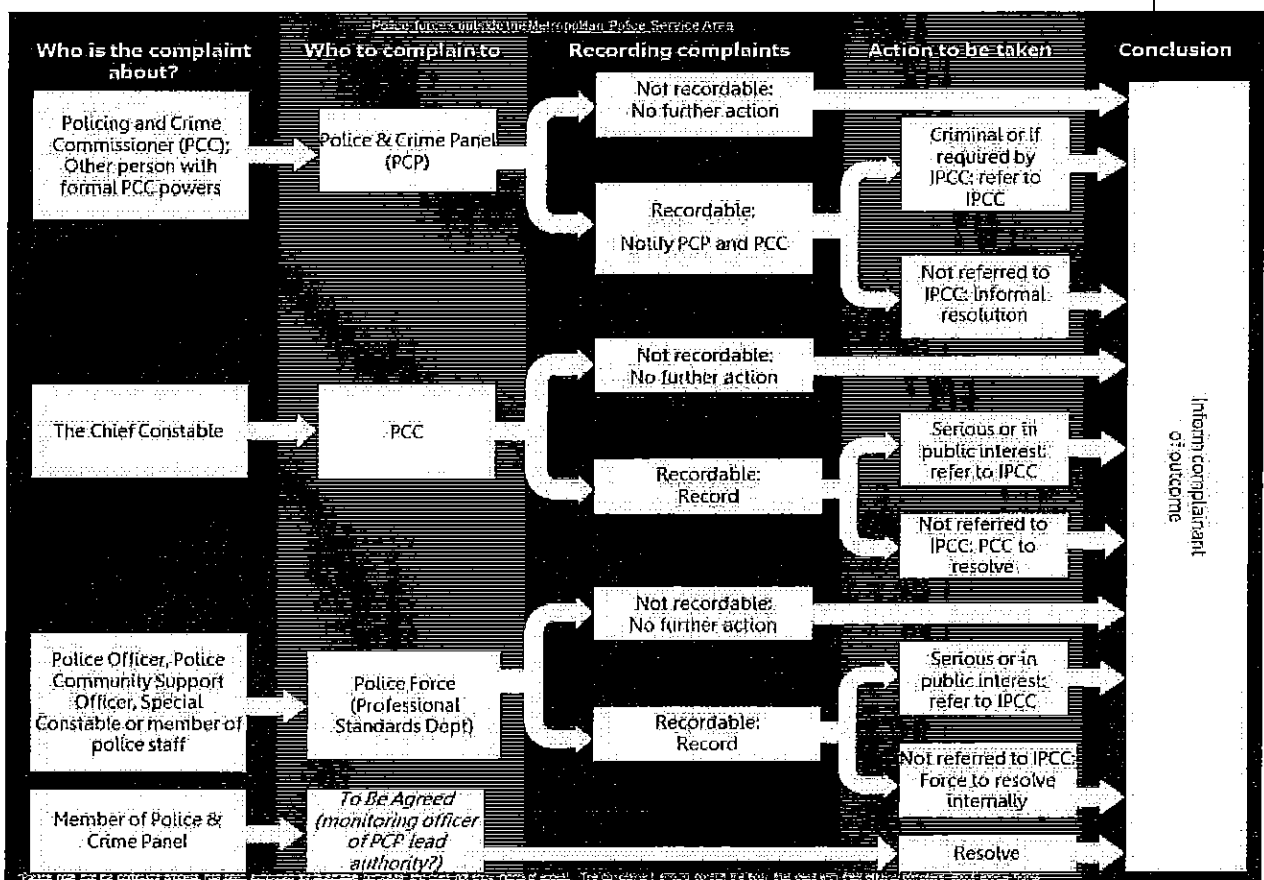
- trust, respect, integrity and openness of those involved in these arrangements will be of paramount importance
- the role of the respective bodies with responsibility for handling specific types of complaints will be respected

¹ Policing Protocol Order 2011

- complaints relating to the Chief Constable will be the responsibility of the PCC to manage, except where the complaint is required to be referred to the IPCC who may make a direction that another body shall investigate
- complaints relating to Gwent Police or persons serving with the Force (other than the Chief Constable) will be the responsibility of the Chief Constable to manage, except where the complaint is required to be referred to the IPCC (Independent Police Complaints Commission) and the IPCC makes a direction that another body shall investigate
- complaints relating to the PCC and their Deputy will be the responsibility of the Police and Crime Panel (PCP) to manage, except where they are required to be referred to the IPCC who may direct that another body shall investigate. The PCP may choose to make delegations to the Chief Executive of the OPCC in relation to the handling of these
- complaints relating to staff of the OPCC will be the responsibility of the PCC to manage in accordance with the OPCC internal complaint protocols

PROCEDURE

Procedure to be followed to enable assurance for the PCC and Chief Constable in the handling of complaints will follow the Association of Police Authority Chief Executives (APACE) guidance as outlined below:



- complaints will be handled by the appropriate authority

- where a body receives a complaint for which it is not the appropriate authority, it shall pass it on to the appropriate authority/body as soon as possible
- where a complaint is received and it is unclear who the appropriate authority is, there will be discussion between the OPCC and Professional Standards Department to reach an agreement and identify the appropriate authority
- where a complaint regarding Gwent Police has been received by the OPCC and it is not the appropriate authority for handling that complaint, and the complaint has been forwarded to Gwent Police, the complainant will be asked if they wish the outcome to be shared with the OPCC
- expressions of dissatisfaction against Gwent Police, which are received by the PCC through community forums, public surgeries, personal meetings, etc may be forwarded to Gwent Police by the PCC for action at their discretion
- the PCCs website will include a link to the IPCC website detailing the complaints handling performance data in relation to Gwent Police

RESOURCES

Both joint and separate resources will be used, including:

- complaints against the Chief Constable will be dealt with by the OPCC, who may call on the services of independent investigators if necessary
- complaints against the Force will be handled by Professional Standards Department (PSD)
- OPCC and the Force will record complaints via the CENTURION system in line with IPCC best practice
- The Strategy and Performance Board will receive reports on the handling of complaints performance by the Force for examination and challenge as appropriate.
- An officer from the OPCC will undertake dip sampling in line with the agreed process and brief the Commissioner on any issues arising which can be discussed via the Strategy and Performance Board if appropriate.

METHODS

Methods to be used will include:

- complaints will be handled in accordance with the relevant legislation and IPCC statutory guidance
- interviews and discussions with PSD as appropriate
- assessment of data trends, including against benchmarks, utilising Professional Standards department papers and IPCC statistics
- dip sampling of completed case files
- review of force position and response in respect of lessons learned from complaints investigations and IPCC bulletins

