

COMPLAINTS ABOUT POLICE AND CRIME COMMISSIONERS CONSULTATION RESPONSE



Overview

This document provides a response from the Police and Crime Commissioner (PCC) for Thames Valley to the Home Office Consultation: '*Complaints about the Police and Crime Commissioner*'.

Set out below are responses to the 17 (seventeen) direct questions posed in the consultation with additional commentary.

By way of overview the following comments are made:

1. The Police and Crime Panel (PCP) already has sufficient powers to handle non-serious complaints
2. It is not considered that providing investigation powers is required or proportionate, having regard to the type and nature of complaints the PCP will handle. This could lead to increased time and costs being incurred on complaints that could already be adequately handled under existing statutory powers.
3. As an alternative to investigatory powers PCPs should be encouraged (or provided with non-statutory guidance) on making effective use of powers already available. This includes powers to require information, documents and the person complained about to attend and answer questions (regulation 28(7) and (9) of the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012).
4. If, notwithstanding the current available powers to a PCP, it is decided that an investigatory power is to be provided, this should be a power to appoint a person with the necessary skills and experience to conduct the investigation and not unnecessarily restrict the pool of investigators to OPCC or local authority monitoring officers.
5. Appropriate powers to issue final conclusions to vexatious complaints are long overdue throughout the police complaints system. These should be provided to Police Forces, PCCs and the PCP.
6. Additional guidance on definitions of complaints falling into the PCP remit and informal resolution for PCPs would be welcomed to ensure a consistent and fair approach is being taken nationally.

1. To what extent do you agree or disagree that the seven Nolan principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership should frame the concept of conduct of a PCC?

Strongly Agree

The seven Nolan principles form the basis of a Code of Conduct that both the PCC for Thames Valley and the Deputy PCC (DPCC) signed up to when commencing their positions. It is a sensible code for PCC's to work to and be held accountable for if conduct amounts to a breach of these principles.

2. To what extent do you agree or disagree that the Government should extend measures being developed to make it easier for forces and PCCs to handle vexatious complaints to PCPs?

Strongly Agree

It cannot be emphasised enough the need for appropriate powers throughout the police complaints system, including PCPs, to handle vexatious complaints effectively. This will be evermore important for PCCs and PCPs if the current proposals to provide PCCs with more responsibilities and powers continue. A disproportionate amount of time is spent by Police Forces, PCCs (and OPCC staff), PCPs and increasingly the Local Government Ombudsman dealing with the same issues and or complaint. If as planned the PCC will take on appeal responsibilities for police complaints, it is anticipated that an increasing amount of complaints about the handling of appeals and appeal outcomes will be made against the PCC. These will fall to the PCP to deal with, which when made without merit and or are otherwise vexatious, will still have to be handled and processed. If powers to properly resolve vexatious complaints with a final conclusion are not available this will lead to additional complaints to the PCP and further in turn to the Local Government Ombudsman.

Question for PCPs only:

3. How many complaints about a PCC did you receive in the financial year 2014-15?

N/A

Question for PCPs only:

4. Of those complaints, how many have you considered where you would have benefited from the ability to investigate the complaint?

N/A

Question for PCPs and PCC Chief Executives only:

5. How much investigation, in terms of hours worked, would you expect it to take to investigate a complaint?

If investigations are to be undertaken, each case would turn on its own specific facts and issues. Some cases could be resolved by a paper exercise, others would involve undertaking further investigation and taking of witness statements. Some complaints could take a matter of hours to gather the available evidence where others could take a number of days to meet witnesses and take statements, obtain CCTV, media coverage or footage etc. Time is then required to produce an appropriate report and recommendations (which will depend on the extent and amount of evidence gathered and reviewed).

What is an appropriate and proportionate investigation in one case would not necessarily be so in another, depending on the severity assessment of the initial complaint. The nature of the complaint would have to be considered and appropriate terms of reference set, before it could be determined what a proportionate investigation would be in any given case.

It is difficult to provide any sensible estimate. However, depending on the number and nature of complaints it is considered, if investigations are to be undertaken a Chief Executive is unlikely to have the time or capacity to routinely undertake proportionate investigations even in routine matters.

6. To what extent do you agree or disagree that PCPs should be given greater investigatory powers to investigate a complaint (either directly or through the appointment of an independent investigator)?

Disagree.

The PCP is required to get the views of the complainant and the person complained against as soon as practicable (regulation 28(9) of the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012).

Further and importantly the PCP already has powers under regulation 28(7) to require the person complained about to provide information and documents and also to appear before the PCP to answer questions or give evidence.

Given that the PCP only handles non-serious complaints the above powers are considered sufficient and proportionate to deal with the type of complaints received. Serious complaints are referred to the IPCC who naturally have appropriate investigatory powers and expertise to investigate complaints effectively.

In light of the nature of complaints handled, the powers available to obtain the relevant evidence and also to question the person complained about, the current powers are proportionate to the issues involved. Providing further powers or investigatory powers would be disproportionate and in practice are unlikely to be used or alternatively could result in unnecessary time and costs being incurred with investigations dealing with complaints that could have adequately been handled under current available powers (regulation 28(7) and (9)).

7. To what extent do you agree or disagree that PCPs should be given the power to investigate complaints themselves, rather than appoint someone to do it?

Strongly disagree.

See response to question 6 above.

It is not considered appropriate to provide investigatory powers. If such powers are to be provided, it is not considered appropriate for the PCP to have a direct power but that it should be to a power to appoint a person with the necessary skills and experience to conduct the investigation effectively.

8. Please explain your answer to question 7.

See response to question 6 and 7 above.

The PCP already has sufficient powers to obtain comments from the parties and documents and information. They also have the power to require the person complained about to attend and answer questions.

If formal investigators are to be appointed to ensure there is sufficient skill and capacity to ensure a complaint is investigated effectively, the power should be by way of appointment of a person with the necessary skills and experience.

9. What do you think the benefits are of PCPs investigating complaints themselves, rather than appointing someone else to do it?

This would avoid the need for additional time and costs being incurred appointing an investigator. This is reinforced by the fact that PCP only handles non-serious complaints which can be appropriately and proportionately dealt with using powers already available (regulation 28(7) and (9)).

10. What do you think the disadvantages are of PCPs investigating complaints themselves, rather than appointing someone to do it?

If formal complaint investigations are undertaken, a PCP may not have the time, capacity or necessary skill or experience to undertake any given investigation effectively. Appointments of an independent person will allow for specific investigations skills to be drawn upon depending on the nature and type of complaint.

11. To what extent do you agree or disagree that PCPs should be able to appoint an independent investigator?

Disagree

It is disagreed in principle, because there is no requirement for formal investigation as current powers under regulation 28(7) and (9) should be utilised. However, if formal investigations are to be used then a power should be provided to appoint a person with the necessary skills and experience to conduct the investigation effectively.

12. To what extent do you agree or disagree that the choice of monitoring officer (either from a local authority, or from the Office of the PCC) should fall to the Panel?

Disagree.

It appears a very narrow view is being taken and that only a 'monitoring officer' from a local authority or the OPCC should be appointed if an investigation power is made available. This is not considered a sensible approach. If such a power is provided the PCP should be given a power to appoint a person with the necessary skills and experience to conduct the investigation effectively. In practice this may be a monitoring officer, but would not necessarily need to be. Indeed it maybe that others would be better placed to conduct such an investigation – for example an experienced investigator or a member of legal profession.

13. To what extent do you agree or disagree that the monitoring officer for the investigation of a complaint should be appointed from the Local Authority?

Disagree

See response to question 13 above.

If an appointment power is provided there appears no reason to restrict the pool of potential investigators. There should be a general power to appoint a person with the necessary skills and experience this will allow the most appropriate person in any given case to be appointed.

14. To what extent do you agree or disagree that the monitoring officer for the investigation of a complaint should be the chief executive of the PCCs office?

Disagree.

See response to question 13 and 14.

Not only would this overly restrict the pool of potential investigators it could lead to difficult conflict issues arising due to the person having to investigate their employer. Although Chief Executives are more than capable of undertaking the investigation and ensuring this is done professionally and independently there may be a perception to the complainant that the Chief Executive as an employee of the PCC is not sufficiently independent. If an appointment power is provided it should be a person outside of the direction and control of the person complained about (this would also be a system and principle in line with Chief Constable complaints).

15. Do you feel that the role of independent investigator should be fulfilled by someone other than the PCC's monitoring officer, or a monitoring officer from a local authority within the police force area? If so please indicate who you think should perform this role:

If a power to appoint an investigator is to be provided this should be a general power to appoint a person with the necessary skills and experience. This will allow the most appropriate person in any given case to be appointed. This would ensure that any potential pool of investigators is not unnecessarily limited and ensure that an appropriate person is available and can be appointed.

16. To what extent do you agree or disagree that PCPs existing powers to make recommendations on the expected level of behaviour of a PCC are sufficient?

Agree.

The role of the PCP is to review and scrutinise the decisions and actions of the PCC. It is therefore sensible for the PCP (when appropriate) to be able to provide recommendations to the PCC on expected standards of behaviour. The PCP already has sufficient powers to achieve this. In any event if the reform is to provide core principles set in line with the Nolan principles, caution should be provided to providing any additional power to the PCP that could provide recommendations that would set standards or levels that are outside or inconsistent with the Nolan principles.

17. To what extent do you agree that, when making recommendations as part of the informal resolution of a complaint, PCPs should tie these recommendations to the expected level of conduct based on the seven Nolan Principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership?

Strongly agree

See response to question 1.

The seven Nolan principles form the basis of a Code of Conduct that both the PCC for Thames Valley and the DPCC signed up to when commencing their positions. It is a sensible code for PCC's to work to and be held accountable for to the public if conduct amounts to a breach of these principles.

If this is underpinned in the complaints system by PCPs making any findings or recommendations as against the Nolan principles this will assist in seeking a national and consistent approach by PCPs to PCC complaint handling.