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SECTION 1 VERSION CONTROL

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SECTION 2 BACKGROUND

- 2.1 This procedure has been written to ensure compliance with the Police Reform Act 2002, Police Reform and Social Responsibility Act 2011, Police (Complaints and Misconduct) Regulations and Policing Protocol Order 2011. All complaints will be investigated in accordance with the legislative and regulation requirements.

SECTION 3 AIMS / OBJECTIVES

- 3.1 To detail the way complaints made by members of the public will be handled by the Nottinghamshire Police and Crime Commissioner (“Commissioner”) and the Nottinghamshire Office of the Police and Crime Commissioner (“Office”) as a result of new legislation and regulations.
- 3.2 To reassure the public that any reasonable complaint made about the Police and Crime Commissioner, Chief Constable, or a Member of the Police and Crime Commissioner’s staff (“staff member”), will be considered and impartially and thoroughly investigated where appropriate within an appropriate time.

SECTION 4 DETAILS**4.1 What is a Complaint?**

A complaint is an expression of dissatisfaction by a member of the public.

4.2 Who can complain?

The following persons cannot make a complaint under the Police Reform Act 2002:

- I. A person who at the time of the alleged conduct was under the direction and control of the same chief officer as the person whose conduct it was; or
- II. A person serving with the police, a member of staff of the Serious Organised Crime Agency or the National Policing Improvement Agency or a person on relevant service (falling within the meaning of section 97(1)(a) or (d) of the Police Act 1996) if he or she was on duty at the time that:
 - the conduct took place in relation to him or her; or
 - he or she was adversely affected by it; or
 - he or she witnessed it

4.3 When Making a Complaint

To assist in the thorough investigation of your complaint, it is important that you provide as much information and detail as possible. For example you should:

- be specific, wherever possible about exactly what you are alleging was said or done. For instance, instead of writing that you were insulted, you should state what they said.
- provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- provide any relevant background information and/or evidence.

If further clarification is requested and not received within 20 working days, the complaint will be closed.

4.4 Recording of Complaints

If the Office is the appropriate authority for dealing with the complaint, then a recording decision must be made. This should be done and communicated to the complainant in writing within 10 working days of receipt of the complaint.

The appropriate authority must record the complaint unless:

- it is satisfied that the subject matter of the complaint has been, or is being, dealt with by criminal or disciplinary proceedings against the person whose conduct it was;
- the complaint has been withdrawn; or
- the complaint falls within a description of complaints specified by the Police (Complaints and Misconduct) Regulations 2012 The complaints that are specified by the Police (Complaints and Misconduct) Regulations 2012 are those where the appropriate authority considers that:
- the matter is already the subject of a complaint made by or on behalf of the same complainant;

- the complaint discloses neither the name and address of the complainant nor that of any other interested person and it is not reasonably practicable to ascertain such a name or address;
- the complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints;
- the complaint is repetitious;
- or the complaint is fanciful.

Complainants have the right of appeal against the decision not to record certain complaints. If you wish to appeal against the decision not to record a complaint, please see Appendix A to see who you should direct your appeal to.

4.5 Complaints Relating to Direction and Control Matters (Operational Policing)

All complaints relating to direction and control matters (operational policing) and about specific police officers with the rank of Deputy Chief Constable and below are the responsibility of the Chief Constable.

Such complaints are not “conduct” complaints and therefore do not have to be recorded as complaints against the Chief Constable. It should be noted that there is no right of appeal against the decision not to record a complaint that is about a direction and control matter.

If you wish to complain about a Nottinghamshire Police direction and control matter or the conduct of a Police Officer below the rank of Chief Constable, there are a number of ways to do this as detailed below:

By writing to the Professional Standards Directorate at Nottinghamshire Police Headquarters

- Nottinghamshire Police Headquarters
Professional Standards Directorate
Sherwood Lodge
Arnold
Nottingham
NG5 8PP

E-mail: complaints@nottinghamshire.pnn.police.uk

- Telephone 101 and ask for the Police Station you require or the Professional Standards Directorate
- Make an appointment to see the Professional Standards Directorate
- In person at a Police Station
- Via the Independent Police Complaints Commission (www.ipcc.gov.uk)

At the conclusion of the investigation into your complaint, you will be advised of the outcome and sent a copy of the Investigating Officer’s Report.

4.6 Monitoring of Complaints

The Police and Crime Commissioner will monitor all complaints made against Nottinghamshire Police officers and staff.

The Office will undertake monthly testing of Nottinghamshire Police complaint files by way of dip sampling to ensure the policy and procedure for handling complaints is being followed.

Bi-monthly reports from Professional Standards Directorate will be considered at the Strategic Performance and Resources meeting. This will inform their understanding of Nottinghamshire Police's performance on the handling of complaints, conduct matters and death or serious injury matters to identify problems or good practice within the force and to ensure that learning is captured, disseminated and monitored.

4.7 Complaints Relating to the Conduct of the Police and Crime Commissioner

Any complaint that relates to the conduct of the Police and Crime Commissioner will be considered by the Police and Crime Panel.

Should you wish to complain about the Police and Crime Commissioner, please put your complaint in writing and send it to:

Chair of the Police and Crime Panel
Nottinghamshire County Council
County Hall
West Bridgford
Nottingham
NG2 7QP

The Police and Crime Panel are responsible for ascertaining if a complaint relates to an allegation of criminal behaviour. If it does, the Police and Crime Panel will refer the complaint to the Independent Police Complaints Commission (IPCC) for investigation.

4.8 Complaints Relating to the Conduct of the Chief Constable

Any complaint that relates to the conduct of the Chief Constable will be investigated by the Police and Crime Commissioner.

The Commissioner will confirm if the complaint is recordable within 10 working days.

Where a complaint is recorded, the Commissioner will provide the complainant with a reference number and a copy of the record of complaint.

The Chief Constable will also be informed of the complaint and the recording decision unless to do so;

- May prejudice any criminal investigation; and/or

- Is otherwise contrary to public interest

The grounds for not recording a complaint are detailed at 4.3 above.

Should you wish to complain about the Chief Constable please put your complaint in writing and send it to the below address:

The Police and Crime Commissioner
Nottinghamshire Office of the Police and Crime Commissioner
Arnot Hill House
Arnot Hill Park
Arnold
Nottingham
NG5 6LU

E-mail: nopcc@nottinghamshire.pnn.police.uk

The Police and Crime Commissioner is responsible for ascertaining if a complaint relates to an allegation of criminal behaviour. If it does, the Police and Crime Commissioner will refer the complaint to the IPCC for investigation.

4.9 Complaints Relating to Nottinghamshire Office of the Police and Crime Commissioner's Chief Executive

Any complaint that relates to the Chief Executive will be investigated by the Police and Crime Commissioner.

If you wish to complain about the Chief Executive, please put your complaint in writing and send it to the below address:

Police and Crime Commissioner
Arnot Hill House
Arnot Hill Park
Arnold
Nottingham
NG5 6LU

E-mail: nopcc@nottinghamshire.pnn.police.uk

4.10 Complaints Relating to the Nottinghamshire Office of the Police and Crime Commissioner's Staff

Line Managers are responsible for investigating complaints that relate to their staff.

If you wish to complain about a staff member of the office, please put your complaint in writing and send it to the below address:

Nottinghamshire Office of the Police and Crime Commissioner
Arnot Hill House
Arnot Hill Park

Arnold
Nottingham
NG5 6LU

E-mail: nopcc@nottinghamshire.pnn.police.uk

To see who you should direct your complaint to in a table format, please see Appendix A.

4.11 Complaints Relating to the service you have received from Nottinghamshire Office of the Police and Crime Commissioner

The Chief Executive is responsible for investigating complaints that relate to the level of service you have received from the Nottinghamshire Office of the Police and Crime Commissioner.

If you wish to complain about the level of service you have received, please put your complaint in writing and send it to the below address:

Chief Executive
Nottinghamshire Office of the Police and Crime Commissioner
Arnot Hill House
Arnot Hill Park
Arnold
Nottingham
NG5 6LU

E-mail: kevin.dennis@nottinghamshire.pnn.police.uk

To see who you should direct your complaint to in a table format, please see Appendix A.

4.12 How Your Complaint against the Chief Constable will be Investigated by the Commissioner

Once a complaint has been recorded, the Commissioner will determine the most suitable method of handling. The complainant will be notified of this as soon as possible. The options are:

- Disapplication
- Referral to the IPCC
- Local Resolution
- Investigation

Before the Commissioner decides to handle a complaint in whatever manner, if at all, the complainant will be informed and be allowed an opportunity to make

representations. The complainant will be given 28 days to do this. Any representations must be taken into account before the Commissioner makes a decision.

a) Disapplication

When a complaint is recorded, the Commissioner may decide to disapply the provisions of the Police Reform Act 2002 in accordance with regulation 5 of the Police Complaints and Misconduct Regulations 2012 and the IPCC statutory guidance.

This means that the complaint will not be dealt with under the provisions of schedule 3 of the Police Reform Act 2002 but in any other manner deemed appropriate by the Commissioner, including taking no action.

The grounds for disapplication are that;

- More than 12 months have elapsed between the incident, or the latest incident, giving rise to the complaint and the making of the complaint and either that no good reason for delay has been shown or that injustice would be likely to be caused by the delay;
- The matter is already subject of a complaint made by or on behalf of the same complainant
- The complainant discloses neither the name and address of the complainant nor that of any other interested person and it is not reasonably practicable to ascertain such name or address
- The complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints
- The complaint is repetitious, as defined in regulation 3(3) of the Police Complaint and Misconduct Regulations 2012; or
- It is not reasonably practicable to complete the investigation of the complaint or any other procedures under Schedule 3 of the Police Reform Act 2002.

If a decision to disapply is made, the complainant will be notified in writing of;

- the disapplication
- what will be done in relation to the complaint, if anything
- the reason for the disapplication, and
- their right of appeal to the IPCC against that decision

b) Referral to the IPCC

Certain types of complaint require referral to the IPCC. These are specified in legislation and are as follows:

- the complaint alleges that the conduct complained of has resulted in death or serious injury; or
- the complainant requires mandatory referral under the regulations, in that the conduct alleged constitutes;
 - a serious assault
 - a serious sexual offence
 - serious corruption
 - a criminal offence or behaviour which is liable to lead to misconduct proceedings which is aggravated by discriminatory behaviour; or
 - a relevant offence, this means an offence for which the sentence is fixed by law or an offence for which a person over 18 years or over may be sentenced for a term of imprisonment for 7 years; or
 - the IPCC notifies the appropriate authority that it requires the complaint to be referred to it.

In such cases the complaint will be referred to the IPCC as quickly as possible and no later than the end of the day following the day on which it becomes clear that the complaint requires referral.

Where a referral to the IPCC has been made, the IPCC will decide how the matter should be handled and the complainant will be notified.

c) Investigating the Complaint

Where a complaint has been recorded, has not been subject to a disapplication and has not been referred to the IPCC, an assessment must be made as to how the complaint will be investigated.

i) Complaints suitable for local resolution

Where the conduct being complained about would not, even if proved, justify bringing criminal or disciplinary proceedings, nor would it infringe a person's rights under Article 2 or 3 of the European Convention of Human Rights, it is likely to be suitable for local resolution.

A complaint's consent is not required for local resolution, but it is preferable to try and secure this. A full explanation should be given to the complainant as to why it is believed that local resolution is appropriate. If the complainant does not agree then a decision will be made on whether the complaint should be resolved in this matter, taking into account;

- the views of the complainant, and
- the reasons the complaint was assessed as suitable for local resolution in the first place; and
- proportionality.

A member of the Commissioner's staff will carry out the Local Resolution, and this may include;

- providing information and explanation
- an apology
- concluding the matter through correspondence that explains the circumstances of a case and any action taken; or
- any other method that is appropriate to the circumstances of the case.

When the matter is concluded, a record of the outcome will be made. A copy of this will be sent both to the complaint and the Chief Constable. The complainant will also be informed of their right of appeal.

ii) Complaints suitable for investigation, locally or by another Force

Where a complaint is not being handled by local resolution either because it is not deemed suitable or the complainant has not consented and it has been decided not to proceed with local resolution without consent, the complaint will be investigated. Where the alleged conduct complained about, even if proved, would not amount to potential misconduct or gross misconduct, then a local investigation may be carried out.

The person appointed to investigate locally must, as per the Police (Complaints and Misconduct) Regulations 2012:

- Have an appropriate level of knowledge, skills and experience to plan and manage the investigation,
- Not work directly or indirectly, under the management of the Chief Constable or staff member,
- Be a person whose appointment could not reasonably give rise to concerns of partiality.

Where the alleged conduct of the Chief Constable would, if proved, amount to misconduct, or gross misconduct, or in any instance where there is no person suitable to carry out a local investigation as above, then the Chief Constable of another Force must be requested to investigate the matter.

The investigating force will be provided with a copy of the complaint and any relevant documentation in the possession of the Commissioner and provided with a full briefing in relation to the complaint and the information available so far.

The briefing should contain all relevant information which may include:

- Details of the remit and extend of the brief
- Details of access level to any Force material, ensuring the appropriate security vetting arrangements have been carried out
- Specified arrangements for interviewing the Chief Constable, the complainant and any other witnesses
- The date for the completion of the investigation and submission of the final report.

- A timetable for the provision of interim statements/progress reports to enable update to be given to the Commissioner and to allow the Commissioner to keep the complainant and any interested party informed
- A prohibition on the circulation of updates and reports to, or discussion of the investigation with any other individual except for the Commissioner or the IPCC
- A specification that the investigation officer's report should be prepared in the knowledge that it is likely to be disclosed to the complainant.

The investigating force should be given full access to any material held by the Commissioner or force which they consider necessary for the proper investigation of the complaint.

They will be provided with contact details for the complainant and the Chief Constable as well as any force or Commissioner staff who may be able to provide information.

All such staff will be expected to co-operate with the investigation and provide access to information reasonably deemed as relevant, whether the investigation is being carried out locally or any an external force.

The investigating officer (either in the case of local investigation or an investigation by another force) may contact the complainant for further information or request information from the Chief Constable or staff member. The investigating officer will in any event be expected to make contact with the complainant and advise them of progress at reasonable intervals.

As soon as a decision has been made as to how the complaint will be investigated, the complainant will be notified of this and the identity of the investigating officer.

The Chief Constable or staff member will be informed of the complaint, unless to do so

- might prejudice any criminal investigation and/or
- is otherwise contrary to public interest

In cases where the alleged conduct, if proven, would amount to misconduct or gross misconduct, the Chief Constable or staff member will be served with the appropriate disciplinary notices.

iii) Keeping the Complainant Informed

The Commissioner will ensure that the complainant is kept informed of progress of the investigation in writing at key stages and in any event by providing an update at least every 28 days.

Information which is required to keep them properly informed shall be supplied save where non-disclosure is required to:

- Prevent the premature or inappropriate disclosure of information that is relevant to or may be used in criminal proceedings
- Prevent disclosure of information in any circumstances where its non disclosure
 - is in the interests of national security

- is for the purposes of prevention and detection of crime, or apprehension or prosecution of offenders
- is required on the grounds of proportionality or
- if otherwise necessary in the public interest.

Information will only not be supplied on one of those grounds if it is considered that there is a real risk of the disclosure causing an adverse effect which would be significant.

d) Discontinuance

An investigation may be discontinued at any time after I has begun, where:

- i) The complainant refuses to co-operate to the extent that it is not reasonably practicable to continue the investigation
- ii) It is determined that the complaint is suitable for local resolution
- iii) It is considered that the complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealings with complaints
- iv) The complaint is repetitious or
- v) The complaint is such that it is considered not reasonably practicable to proceed with the investigation.

The Commissioner may make this determination unless the investigation is being managed or supervised by the IPCC or is a complaint required to be referred to the IPCC in which case the IPCC may make this determination either of its own accord or on the application of the Commissioner.

Before discontinuing an investigation or making an application to the IPCC to order discontinuance, the Commissioner will write to the complainant notifying them of this and inviting them to make representations in relation to the matter within 28 days commencing from the date after the date of the letter.

The Commissioner will have regard to any representations made before deciding whether to discontinue. A copy of any application to the IPCC for discontinuance must also be sent to the complainant the same day as it is sent to the IPCC.

If the investigation is discontinued, the Commissioner may take one of the following steps:

- Produce an investigation report on the discontinued investigation and take any further subsequent steps under schedule 3 of the Police Reform Act 2002.
- Disapply the requirements of schedule 3 of the act (see disapplication section above)
- Subject the complaint to local resolution; or
- Handle the matter in whatever way it deems fit.

If the investigation is discontinued, the complainant will be informed of the discontinuance and the reasons for it. The complainant will also be advised of their right to appeal.

The Chief Constable will be informed of the complaint, unless to do so

- might prejudice any criminal investigation and/or
- is otherwise contrary to public interest.

e) Reporting the Findings

At the conclusion of the investigation, the investigating officer will submit to the Commissioner a report setting out their findings and including details of any evidence considered. The report should be suitable for disclosure to the complainant and should conclude with a recommendation as to whether or not the complaint should be upheld. The investigating officer should also advise if he/she has become aware of anything that would lead them to believe that disciplinary proceedings are justified.

The Commissioner will consider the report and the recommendation. If at all possible, this should be done within 2 weeks of receipt of the report.

A decision will be taken as to whether to agree the findings and recommendation and what, if any, action should be taken in respect of the report. This will include a decision about whether to uphold the complaint, and whether the issue needs referring to misconduct proceedings or some other action.

The Commissioner is under a duty to refer a case to misconduct proceedings if;

- The IPCC has issued a recommendation or a direction that misconduct proceedings should be brought
- The Chief Constable already has a live written warning
- He/she determines there is a case to answer in respect of gross misconduct

f) Action Following the Consideration of the Report

- The Commissioner will notify the complainant, and all other interested parties as soon as possible:
 - Of the findings of the report, and
 - Whether he/she has decided to take any action and if so, what that action is, and
 - Of any learning which has been gained from the issue and how it will be used, and
 - Of the complainant's right of appeal.

4.13 How Your Complaint against the a Member of Staff will be Investigated

i) Complaints suitable for local resolution

Where the conduct being complained about would not, even if proved, justify bringing criminal or disciplinary proceedings, nor would it infringe a person's rights under Article 2 or 3 of the European Convention of Human Rights, it is likely to be suitable for local resolution.

A complaint's consent is not required for local resolution, but it is preferable to try and secure this. A full explanation should be given to the complainant as to why it is believed that local resolution is appropriate. If the complainant does not agree

then a decision will be made on whether the complaint should be resolved in this matter, taking into account;

- the views of the complainant, and
- the reasons the complaint was assessed as suitable for local resolution in the first place; and
- proportionality.

A member of the Commissioner's staff will carry out the Local Resolution, and this may include;

- providing information and explanation
- an apology
- concluding the matter through correspondence that explains the circumstances of a case and any action taken; or
- any other method that is appropriate to the circumstances of the case.

When the matter is concluded, a record of the outcome will be made. A copy of this will be sent both to the complainant and the staff member. The complainant will also be informed of their right of appeal.

ii) **Complaints suitable for investigation locally**

Where a complaint is not being handled by local resolution either because it is not deemed suitable or the complainant has not consented and it has been decided not to proceed with local resolution without consent, the complaint will be investigated. Where the alleged conduct complained about, even if proved, would not amount to potential misconduct or gross misconduct, then a local investigation may be carried out.

The person appointed to investigate locally must, as per the Police (Complaints and Misconduct) Regulations 2012:

- Have an appropriate level of knowledge, skills and experience to plan and manage the investigation,
- Not work directly or indirectly, under the management of the staff member,
- Be a person whose appointment could not reasonably give rise to concerns of partiality.

iii) **Reporting the Findings**

At the conclusion of the investigation, the investigating officer will submit to the a report setting out their findings and including details of any evidence considered. The report should be suitable for disclosure to the complainant and should conclude with a recommendation as to whether or not the complaint should be upheld. The investigating officer should also advise if he/she has become aware of anything that would lead them to believe that disciplinary proceedings are justified.

The Chief Executive or Commissioner if the complaint is regarding the Chief Executive, will consider the report and the recommendation. If at all possible, this should be done within 2 weeks of receipt of the report.

A decision will be taken as to whether to agree the findings and recommendation and what, if any, action should be taken in respect of the report. This will include a decision about whether to uphold the complaint, and whether the issue needs referring to misconduct proceedings or some other action.

iv) **Action Following the Consideration of the Report**

The Chief Executive or Commissioner will notify the complainant, and all other interested parties as soon as possible:

- Of the findings of the report, and
- Whether he/she has decided to take any action and if so, what that action is, and
- Of any learning which has been gained from the issue and how it will be used, and
- Of the complainant's right of appeal.

4.14 How Your Complaint will be Investigated by Nottinghamshire Police

Please refer to Nottinghamshire Police's Complaints Procedure.

4.15 How the Police and Crime Panel will deal with your complaint

The Police and Crime Panel will refer complaints alleging criminal behaviour to the IPCC, and will seek to resolve other complaints by informal resolution. Please refer to the Panel's Complaints Procedure for more information.

4.16 Appeals

If, once you have received the outcome of the complaint investigation, you are not satisfied with the response, you have the right of appeal under any of the following provisions:

- appeal against failure to record a complaint
- appeal against the decision to handle the complaint or no action taken
- appeal against the outcome of the complaint
- appeal in relation to the investigation

An appeal should be made in writing within 28 days of the date on which the outcome of the complaint investigation is given.

To see who you should direct your appeal to, please see Appendix A.

4.17 Misconduct Panels

Nottinghamshire Police will contact the Police and Crime Commissioner at the point of arranging a Misconduct Panel to request an independent person. The Police and Crime Commissioner has a duty to maintain the list of independent persons. The Police and Crime Commissioner is responsible for meeting the costs and expenses of the independent person.

4.18 Police Appeal Tribunals

In the case of an appeal tribunal by a member of a police force, the tribunal will consist of three members. A legally qualified member, a serving ACPO officer from another force and an ex police officer. The legally qualified member (drawn from the list maintained by the Home Office) will be the Chairman. The Police and Crime Commissioner is responsible for meeting the costs and expenses of the Appeals.

SECTION 5 LEGISLATIVE COMPLIANCE

This document has been drafted taking into account the general and specific duties in the Equality Act 2010, Freedom of Information Act 2000, Data Protection Act 1998, Human Rights Act 1998, Employment Act 2002 and Employment Relations Act 1999, and other legislation relevant to policing.