



Nottinghamshire

POLICE & CRIME COMMISSIONER

Complaints Relating to the Conduct of the Chief Constable

Nottinghamshire Police is under the direction and control of the Chief Constable. Amongst his duties, he is responsible for dealing with any complaint about the conduct of police officers and staff within Nottinghamshire Police.

The Police and Crime Commissioner has responsibility for dealing with complaints made by members of the public about the individual conduct of the Chief Constable (or any acting Chief Constable). All such complaints will be dealt with in accordance with the attached policy.

Expectations about the conduct of the Chief Constable are set out in the Standards of Professional Behaviour. These expectations include requirements to:

- Act with honesty and integrity;
- Treat members of the public with respect and courtesy;
- Not abusing powers and authority
- Act with fairness and impartiality;
- Act in a manner that does not discredit or undermine public confidence in the police service.

Should you wish to complain about the individual conduct of 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: Paddy.Tipping4014@nottinghamshire.pnn.police.uk

If you wish to make a complaint against the conduct of a police officer below the rank of Chief Constable, or a member of Police staff, please put your complaint in writing and send it to the below address:

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

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

POLICY

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

Any non-criminal complaint that relates to the conduct of the Chief Constable will be investigated by the Commissioner or someone appointed by the Commissioner to investigate the complaint on his behalf.

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 Commissioner will consider the complaint and can decide not to record or investigate certain complaints if;

The Commissioner must record the complaint unless:

- he 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. Any appeal against the decision not to record a complaint against the Chief Constable should be directed to:

Independent Police Complaints Commission
5th Floor
90 High Holborn
London
WC1V 6BH

Telephone: 08453 002 002 (Local rate)

Email: enquiries@ipcc.gsi.gov.uk

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

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

Disapplication

When a complaint is recorded, the Commissioner may decide to disapply the relevant 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, which could include 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 the 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 because
 - It is not reasonably practicable to communicate with the complainant or a person on his behalf, or
 - It is not reasonably practicable to complete a satisfactory investigation due to a refusal or failure on the part of the complainant to make a statement, or the lapse of time since the events forming the subject matter of the complaint.

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

Referral to the IPCC

Certain types of complaint require referral to the IPCC. These are specified in the Police (Complaints and Misconduct) Regulations 2012 and include the following:

- where the complaint alleges that the conduct complained of has resulted in death or serious injury; or
- where 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 7years; or

- where 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.

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.

Complaints suitable for local resolution

- A complaint may be 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.
- Where local resolution is being considered, reasonable attempts to secure the complainant's consent for such a resolution ought to be obtained. This should involve a full explanation being 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.

Where local resolution is considered suitable, this will be carried out by the Commissioner or a member of the Commissioner's staff. Examples of local resolution include;

- providing information and explanation for the action in question
- providing an apology, if appropriate
- 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 Chief Constable. The complainant will also be informed of their right of appeal if they remain dissatisfied.

Complaints suitable for investigation

Any complaint which is not dealt with by local resolution (with or without consent of the complainant) will be investigated. In cases where the conduct complained of would not, if proved, amount to misconduct or gross misconduct, the investigation may be carried out locally.

The Commissioner will appoint an investigating officer in cases where an investigation is being carried out locally. 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 a concern as to whether he could act impartially.

Where the alleged conduct of the Chief Constable would, if proved, amount to misconduct, or gross misconduct 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, any relevant documentation in the possession of the Commissioner and 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 extent 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 the Commissioner to be updated 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 may contact the complainant for further information or request information from the Chief Constable. 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 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.

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.

The Commissioner will provide such information as is required to keep the complainant properly informed 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 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.

Discontinuance

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

- The complainant refuses to co-operate to the extent that it is not reasonably practicable to continue the investigation
- It is determined that the complaint is suitable for local resolution

- It is considered that the complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealings with complaints
- The complaint is repetitious or
- 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 other way he 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.

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 10 working days 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

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.