



Procedure for handling complaints against the chief constable of Lincolnshire Police

a. Introduction

1. The Police and Crime Commissioner for Lincolnshire ("the Commissioner") is responsible for dealing with Complaints, Conduct Matters, Death and Serious Injury Matters and Non-Police Reform Act Misconduct or Gross Misconduct matters that involve the Chief Constable of Lincolnshire Police Force ("the Chief Constable").
2. This guidance is an aide to the Commissioner as to the procedure to be followed when allegations are made against the Chief Constable, particularly by members of the public, up to the point at which a decision is taken to refer a matter to Misconduct Proceedings.
3. Information on how members of the public can make a Complaint against the Chief Constable is available on the Commissioner's website and from his/her staff.
4. The Commissioner also has a duty to ensure that if they receive a Complaint about the conduct of anyone other than the Chief Constable, then he/she shall notify the appropriate authority with responsibility for dealing with the Complaint.
5. The Commissioner will agree a protocol with Lincolnshire Police Force to ensure that complaints about the Chief Constable received by the Force are forwarded to the Commissioner within 24 hours of receipt. The Commissioner will agree a similar protocol with Lincolnshire Police to ensure that any complaints received by him/her or within his/her office about any person serving with Lincolnshire Police other than the Chief Constable are similarly forwarded to the Force within 24 hours of receipt. (Any failure to give such notification can be subject to appeal to the IPCC).
6. There may be occasions when the Commissioner receives a complaint about the Chief Constable and the Force receives a complaint arising out of the same 'incident' that involves a lower ranking officer. In those circumstances consideration will be given to ensuring that the handling of the complaints is coordinated (where appropriate).
7. The Commissioner will put in place a system by which all allegations received about the Chief Constable are logged in a 'Complaints/Conduct Register' ("the Register"). The Register will be maintained electronically, with an appropriate paper backup system. The Register will as a minimum include details of the source of the allegation, and in the case of a Complaint, the name and contact details of the complainant; the nature of the allegations and date received. Further details logged will depend upon the nature of the allegations, including whether or not there is a requirement for it to be investigated or referred to the Independent Police Complaints Commission (IPCC).

b. Legislative framework and supporting guidance

8. This procedure must be read in conjunction with the following legislation and guidance (amended and updated as applicable):
 - The Police Reform Act 2002 ("PRA")
 - The Police Reform and Social Responsibility Act 2011 ("PRSA")
 - The Police (Complaints and Misconduct) Regulations 2012 ("Complaints Regs")
 - The Police (Conduct) Regulations 2012 ("Conduct Regs")
 - Statutory Guidance to the police service on the handling of complaints ("IPCC Statutory Guidance")
 - Police Officer Misconduct, Unsatisfactory Performance and Attendance Management Procedures ("Home Office Guidance")
9. This procedure sets out some the key decisions and issues which the Commissioner must consider. The Legislation and Guidance contains further key provisions including but not limited to record keeping, notifications, service of copies of material, legal and other representation and time limits, all of which must also be adhered to.
10. All references to Unsatisfactory Performance or Attendance and the Police (Performance) Regulations 2012 within the IPCC Statutory Guidance and Home Office Guidance should be ignored, as these provisions are not applicable to the rank of Chief Constable.

c. Initial assessment

11. Information concerning the conduct of the Chief Constable may come from a variety of sources, including: from a member of the public; from another officer within Lincolnshire Police Force; from the outcome of an internal Force investigation; from civil proceedings; from articles picked up in from the press or even from the IPCC.
12. The source of the information is important as it has an impact on what type of matter it will be, which in turn dictates how the matter must be handled.
13. There are four types of matter:
 - Complaints
 - Conduct Matters
 - Death and Serious Injury Matters ("DSI Matters")
 - Non-PRA Matters
14. Complaints, Conduct Matters and DSI Matters are primarily governed by the PRA and the Complaints Regs. Non-PRA matters, as the name suggests, are matters which fall outside of the PRA and are governed solely by the Conduct Regs.
15. It is important to remember that conduct includes acts, omissions, statements and decisions (whether actual, alleged or inferred).
16. For all four types of matter, the Commissioner will need to consider whether it is necessary for the Chief Constable to be suspended in accordance with Section (h) of this guidance.

17. The Commissioner must also deal with any Complaint or Conduct Matters which concern a former Chief Constable, who is no longer serving with the police, including any necessary investigation, up to the point where any decision would be required on whether disciplinary proceedings should be brought.

Is it a complaint?

18. A Complaint is an expression of dissatisfaction about the conduct of the Chief Constable which has been made by or on behalf of a member of the public. The member of the public must claim to be the person in relation to whom the conduct took place, or to have been adversely affected by the conduct or to have witnessed the conduct. A Complaint can also be about matters of 'Direction and Control'.
19. The Commissioner must identify whether the Complaint is about the Chief Constable's conduct, or if it is about an issue of Direction and Control concerning the Chief Constable. This is because Complaints about Direction and Control matters do not have the same rights of appeal for the complainant. The Register entry for the Complaint should clearly state if it is about a Direction and Control matter.

Direction and control

20. A Direction and Control matter is a matter that relates to the direction and control of Lincolnshire Police Force by the Chief Constable or a person for the time being carrying out the functions of the Chief Constable. The IPCC considers this to mean general decisions about how the force is run, as opposed to day-to-day decisions or actions. For example a Complaint about an operational management decisions directed to the force, such as a force-wide crime initiative would be a Complaint about a Direction and Control matter. Whereas a Complaint about a specific decision by the Chief Constable on the deployment of officers for a particular operation, would be a Complaint about the Chief Constable's conduct.
21. The full test for whether the matter is a Complaint is set out in s12(1) of PRA and is explained in section 3 of the IPCC Statutory Guidance. What is meant by being adversely affected, or to have witnessed the conduct is set out in s12(3), s12(4) and s12(5) of PRA.
22. The Commissioner should be mindful of the IPCC Statutory Guidance on who is considered a 'member of the public' for the purposes of a Complaint, including the provisions regarding a person serving with the police who was off duty at the time and also partners and relatives of a person serving with the police.
23. A Complaint should be acknowledged by the Commissioner within two working days of receipt.

Is it a conduct matter?

24. If a matter is not a Complaint, the Commissioner must decide if it is a Conduct Matter.
25. A Conduct Matter is any matter (which is not and has not been the subject of a Complaint) where there is an indication that the Chief Constable may have committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings.

26. The full test for whether the matter is a Conduct Matter is set out in s12(2) of PRA and is further explained in section 6 of the IPCC Statutory Guidance.

Is it a DSI Matter?

27. A DSI matter is any circumstances (other than those which are or have been the subject of a Complaint or which amount to a conduct matter) in or in consequence of which a person has died or has sustained serious injury and either:
- (a) At the time of the death or serious injury the person:
 - (i) had been arrested by the Chief Constable and had not been released from that arrest; or
 - (ii) was otherwise detained in the custody of the Chief Constable; or
 - (b) At or before the time of the death or serious injury:
 - (i) the person had contact with the Chief Constable acting in the execution of their duties; and
 - (ii) there is an indication that the contact may have caused or contributed to the death or serious injury.
28. The full test for whether the matter is a DSI Matter is set out in s12(2A) – 12(2D) of PRA and is further explained in s7 of the IPCC Statutory Guidance.
29. Given the very direct nature of the required contact, a DSI Matter is very rarely going to involve the Chief Constable but is included for completeness.

Is it a non-PRA Matter?

30. Any allegation which comes to the attention of the Commissioner, which is not a Complaint, Conduct Matter or DSI Matter, but which indicates that the conduct of the Chief Constable may amount to Misconduct or Gross Misconduct, must be dealt with in accordance with the Conduct Regs.
31. See r5 of Conduct Regs and para 2.42 of the Home Office Guidance.
32. Misconduct means a breach of the Standards of Professional Behaviour. Gross Misconduct means a breach of the Standards of Professional Behaviour so serious that dismissal would be justified.
33. The Standards of Professional Behaviour are set out in Schedule 2 of the Conduct Regs and Guidance on those standards is provided in Chapter 1 of the Home Office Guidance.

d. Handling of complaints

34. Schedule 3, Part 1 of PRA sets out how Complaints must be handled.
35. The Commissioner must ensure that all necessary steps are taken, both initially and from then on for obtaining and preserving evidence relating to the conduct complained of.

Recording complaints

36. A Complaint MUST be recorded unless:

- (a) The Commissioner is satisfied that the subject-matter of the Complaint has been, or is already being, dealt with by means of criminal or disciplinary proceedings against the Chief Constable;
 - (b) The Complaint has been withdrawn; or
 - (c) One of the exceptions from r3 of the Complaints Regs applies, namely that the Complaint is:
 - (i) Already the subject of a complaint by or on behalf of the same complainant;
 - (ii) discloses neither the name and address of the complainant or any other interested person and it is not reasonably practicable to ascertain them;
 - (iii) is vexatious, oppressive or otherwise an abuse of the procedures for dealing with Complaints;
 - (iv) is repetitious; or
 - (v) is fanciful.
37. Unless the Complaint relates to a Direction and Control matter, the complainant shall have a right of appeal to the IPCC against any decision not to record the Complaint.
38. The IPCC expects a recording decision to be made within 10 working days of receipt.

Reference to the IPCC

39. The Commissioner must next consider whether the Complaint must be referred to the IPCC, known as Mandatory Referral, or whether the Commissioner considers it is necessary in the given circumstances, known as Voluntary Referral.

Mandatory referral

40. The Commissioner MUST refer a recorded Complaint to the IPCC if:
- (a) The Complaint alleges that the conduct of the Chief Constable has resulted in death or serious injury;
 - (b) The Complaint alleges conduct which constitutes the following (as set out in r4 of the Complaints Regs):
 - (i) a serious assault
 - (ii) a serious sexual assault;
 - (iii) serious corruption;
 - (iv) a criminal offence or behaviour which is liable to lead to misconduct proceedings and which was aggravated by discriminatory behaviour;
 - (v) a relevant offence;
 - (c) The Complaint arises from the same incident as one in which any conduct falling within (a) or (b) is alleged; or
 - (d) The IPCC notifies the Commissioner that it requires the Complaint to be referred.
41. Where the Commissioner decides that the grounds in 40(a), (b) or (c) above for Mandatory Referral of the Complaint have been met, the Complaint must be referred to the IPCC without delay and by no later than the end of following day.
42. If, as under 40(d) the IPCC notified the Commissioner that the Complaint must be referred, then the Commissioner must refer the Complaint without delay and by no later than the end of the following day.

Voluntary referral

43. Where the grounds for Mandatory Referral are not met, the Commissioner may make a Voluntary Referral if they consider it would be appropriate to do so by reason of:
 - (a) The gravity of the subject-matter of the Complaint; or
 - (b) Any exceptional circumstances.
44. If a Mandatory or Voluntary Referral is made, the Commissioner must inform the Complainant and unless to do so might prejudice a possible future investigation of the Complaint, must inform the Chief Constable.
45. The purpose of the referral is for the IPCC to determine whether or not the Complaint should be investigated and if so, the form of investigation (i.e. an Investigation on behalf of the Commissioner; an IPCC Supervised Investigation; an IPCC Managed Investigation or an IPCC Investigation). See section (i) below for handling of Investigations.
46. Guidance on making referrals to the IPCC is set out in section 8 of the IPCC Statutory Guidance.

Disapplication

47. Providing the Complaint falls within a description of Complaints set out in r5 of the Complaints Regs and the Commissioner considers that the Complaint should be handled otherwise than in accordance with the PRA, the Commissioner can handle the Complaint in whatever manner they think fit, including taking no further action in relation to it. This is known as Disapplication.
48. The Commissioner will only need to seek the IPCC's permission on a Disapplication if the Complaint was subject to a Mandatory or Voluntary Referral to the IPCC.
49. The Disapplication procedure is set out in r5 of the Complaints Regs and further explained in section 4 of the IPCC Statutory Guidance.
50. Unless the Complaint was about a Direction & Control matter, the complainant has a right of appeal to the IPCC against a Disapplication decision.

Local resolution

51. A Complaint will be suitable for Local Resolution if the following conditions are both met:
 - (a) The Commissioner is satisfied that the conduct complained of, even if proved (or admitted) would not justify the bringing of any criminal or disciplinary proceedings; and
 - (b) The Commissioner is satisfied that the conduct complained of, even if proved (or admitted) would not involve the infringement of a person's Article 2 rights (right to life), or Article 3 rights (prohibition of torture etc.).
52. The procedure and arrangements for subjecting a Complaint to Local Resolution are set out in Sch.3(1), para 8 of PRA and r6 of the Complaints Regs. Guidance on Local Resolution is provided in section 5 of the IPCC Statutory Guidance.
53. Unless the Complaint was about a Direction & Control matter, the complainant has a right of appeal to the IPCC against the outcome of Local Resolution.

54. If the grounds for Disapplication are not met and the Complaint is not suitable for local resolution it must be investigated – see section (i) below for handling of Investigations.

e. Handling of conduct matters

55. Schedule 3, part 2 of PRA sets out how Conduct Matters must be handled.

56. As with Complaints, the Commissioner has an on-going duty to ensure that all necessary steps are taken, both initially and from then on for obtaining and preserving evidence relating to the conduct matter.

Recording conduct matters

57. The Commissioner must be mindful of the specific provisions which apply to Conduct Matters involving the Chief Constable which arise in actual or threatened civil proceedings, brought by a member of the public against the PCC for Lincolnshire or the Chief Constable of Lincolnshire Police Force. See Sch. 3(2), para 10 PRA and Reg 7(2).

58. A Conduct Matter MUST be recorded if (assuming it to have taken place):

- (a) It appears to have resulted in the death or serious injury of any person;
- (b) A member of the public has been adversely affected by it; or
- (c) It is of a description in r7(1) of the Complaints Regs, namely:
 - (i) a serious assault
 - (ii) a serious sexual offence;
 - (iii) serious corruption;
 - (iv) a criminal offence or behaviour which is liable to lead to misconduct proceedings and which was aggravated by discriminatory behaviour;
 - (v) a relevant offence;
 - (vi) conduct which is alleged to have taken place in the same incident as (i)-(v) above; or
 - (vii) conduct whose gravity or other exceptional circumstances make it appropriate to record.

59. The Conduct Matters set out in para 58 above are referred to as Recordable Conduct Matters. The only exception to the requirement to record a Recordable Conduct Matter is if that matter is repetitious, within the meaning set out in r7(3) of the Complaints Regs.

60. The Commissioner also has the discretionary power to record any other Conduct Matter which does not fall within those referred to as Recordable Conduct Matters.

Reference to the IPCC

61. The Commissioner must next consider whether the Recordable Conduct Matter meets the grounds for Mandatory or Voluntary Referral to the IPCC.

Mandatory referral

62. The Commissioner MUST refer a Recordable Conduct Matter to the IPCC where:

- (a) The matter relates to any incident or circumstances in or in consequence of which any person has died or suffered serious injury;
 - (b) The matter is of a description in r7(4) of the Complaints Regs (as set out in para 51(c)(i)-(vi) above); or
 - (c) The IPCC notifies the Commissioner that it requires the Recordable Conduct Matter to be referred.
63. Where a Recordable Conduct Matter must be referred to the IPCC, the Commissioner must do so without delay and by no later than the following after they have identified the matter must be referred, or the following day after they have been notified by the IPCC that the matter must be referred.

Voluntary referral

64. The Commissioner may make a Voluntary Referral if they consider it would be appropriate to do so by reason of:
- (a) The gravity of the matter; or
 - (b) Any exceptional circumstances.
65. Unless to do so might prejudice a possible future investigation, the Commissioner must inform the Chief Constable once the matter has been referred to the IPCC.
66. The purpose of the referral is for the IPCC to determine whether or not the Recordable Conduct Matter should be investigated and if so, the form of investigation (i.e. an Investigation on behalf of the Commissioner; an IPCC Supervised Investigation; an IPCC Managed Investigation or an IPCC Investigation). See section (i) below for handling of Investigations.
67. Guidance on making referrals to the IPCC is set out in section 8 of the IPCC Statutory Guidance.

f. Handling of DSI matters

68. Schedule 3, part 2A of PRA sets out how DSI Matters must be handled.
69. As with Complaints and Recordable Conduct Matters, the Commissioner has an on-going duty to ensure that all necessary steps are taken, both initially and from then on for obtaining and preserving evidence relating to the DSI matter.

Recording of DSI Matters

70. All DSI Matters which come to the attention of the Commissioner must be recorded.

Reference to the IPCC

71. All DSI Matters require Mandatory Referral to the IPCC.
72. The Commissioner must refer any DSI Matter without delay and by no later than the following day after the DSI Matter comes to the Commissioner's attention, or the following day after they have been notified by the IPCC that the matter must be referred.

g. Handling of non-PRA matters

73. There is no requirement to make a recording decision in the same way as with Complaints, Conduct Matters and DSI Matters. However, the Commissioner should keep a written note in the Register of any identified Non-PRA Matters.
74. There is no requirement to consider referral to the IPCC, as that is only required for Complaints, Recordable Conduct Matters and DSI Matters.

Assessment of conduct

75. Where the Commissioner has received a Non-PRA Matter, the Commissioner must first conduct an assessment to determine whether the alleged conduct, if proved (or admitted), would amount to:
 - (a) Misconduct; or
 - (b) Gross Misconduct; or
 - (c) Neither.
76. If the Commissioner considers the alleged conduct would amount to neither Misconduct nor Gross Misconduct, the Commissioner may take no action, or may take Management Action.
77. If the alleged conduct would amount to Misconduct (a breach of the Standards of Professional Behaviour) then the Commissioner must decide if it is necessary for the matter to be investigated. See section (j) below for handling of Investigations. If it is not necessary for the matter to be investigated, the Commissioner may take no action, or may take Management Action.
78. If the alleged conduct would amount to Gross Misconduct (a breach of the Standards of Professional Behaviour, so serious that dismissal would be justified), the matter must be investigated. See section (j) below for handling of Investigations.
79. The Commissioner may revise their assessment at any time before the start of any Misconduct Proceedings.
80. As soon as practicable, the Commissioner should notify the Chief Constable of any decision to take no action or to take Management Action. See the provisions of r15 of the Conduct Regs for details of if, when and how notification of a decision to investigate a Non-PRA Matter is to be given to the Chief Constable.

Management action

81. Management Action means action or advice intended to improve the conduct of the Chief Constable. It is not a disciplinary outcome and as such does not have to be revealed to the CPS.
82. See para 2.91-2.98 of the Home Office Guidance.
83. Management Action must not be confused with Management Advice – which is a disciplinary outcome that can only be imposed following a Misconduct Meeting or a Misconduct Hearing.

h. Suspension

84. Where an allegation indicates that the Chief Constable's conduct may amount to Misconduct or Gross Misconduct (whether arising in a Complaint, Conduct Matter, DSI Matter or Non-PRA Matter), the Commissioner has the power to suspend the Chief Constable from his office as constable and from membership of the Force providing the Suspension Conditions are met.
85. See r10 of Conduct Regs and para 2.12-2.26 of the Home Office Guidance.
86. The Suspension Conditions are:
- (a) A temporary redeployment to alternative duties or an alternative location is not, in all the circumstances appropriate; and
 - (b) It appears that either:
 - (i) The effective investigation of the case may be prejudiced unless the Chief Constable is suspended; or
 - (ii) The public interest, having regard to the nature of the allegation and any other relevant considerations, requires the Chief Constable be suspended.
87. Suspension shall be with pay, unless:
- (a) The Chief Constable is detained in prison, or is in custody between conviction and sentence; or
 - (b) The Chief Constable has absented him/herself from duty and their whereabouts are unknown to the Commissioner.
88. The suspension will have effect from the date and time it is notified to the Chief Constable. Notification can be given either orally or in writing, including a summary of the reasons for the suspension. If given orally, then written confirmation must be sent before the end of 3 working days beginning with the first working day after suspension. (e.g. If a decision to suspend is notified orally on Monday, written confirmation must be sent by the end of Thursday. If a decision to suspend is notified orally on Friday, written confirmation must be sent by the end of Wednesday).
89. The Chief Constable has a right to make representations against their suspension.
90. The Commissioner must review the suspension:
- (a) Upon receipt of any representations against suspension from the Chief Constable;
 - (b) Within 4 weeks of the suspension, and thereafter within 4 weeks of each review;
 - (c) If the Commissioner becomes aware that circumstances relevant to the suspension conditions may have changed.
91. The Commissioner must notify the Chief Constable of the outcome of any review within 3 working days.
92. If an investigation is Supervised, Managed or being conducted by the IPCC on its own behalf, then the Commissioner will have to consult with the IPCC before making a decision to suspend the Chief Constable, or before ending a suspension on the grounds that the suspension conditions are no longer met.

i. Investigation of complaints, recordable conduct matters and DSI matters

93. Schedule 3, Part 3 of the PRA governs the handling of Investigations of Complaints, Recordable Conduct Matters and DSI Matters. Further provisions are made in the Complaints Regs, including provisions for Discontinuance of Investigations. Sections 9 and 10, of the IPCC Statutory Guidance provide guidance on conducting Investigations and Discontinuance.
94. For an investigation on behalf of the Commissioner, or an IPCC Supervised Investigation or an IPCC Managed Investigation the Investigating Officer (IO) must be:
- (a) A person serving with the police; or
 - (b) A National Crime Agency officer (of suitable rank);
95. In addition, the IO must:
- (a) Have the appropriate level of knowledge, skills and experience to plan and manage the investigation; and
 - (b) Not work directly or indirectly under the management of the Chief Constable; and
 - (c) Not be a member of Lincolnshire Police force;
 - (d) Not be a person whose involvement in the role of IO could reasonably give rise to a concern as to whether they could act impartially.
96. The requirements for who can be appointed as an IO usually results in the need for the IO to be a Chief Constable from another police force.
97. If the Complaint is about a Direction and Control matter, then para 95 (b) and (c) above do not apply and the fact that the person works under the management of the Chief Constable, or is a member of Lincolnshire Police Force would not in itself constitute a reasonable ground for concern that they could not act impartially.
98. For an IPCC Supervised Investigation or an IPCC Managed Investigation, the IPCC has the power of veto over any proposed IO.
99. For an IPCC Investigation the IPCC has sole responsibility for identifying and appointing the IO, who will be a member of the IPCC's staff.
100. For the investigation of a Complaint, the IO will have to consider whether the Complaint needs to be certified as being subject to Special Requirements (see Sch. 3(3), para 19B(1) PRA), and if so, as soon as is reasonably practicable make a Severity Assessment (see Sch. 3(3), para 19B(2) PRA).
101. For the investigation of a Recordable Conduct Matter, the IO will have to make a Severity Assessment as soon as reasonably practicable (see Sch. 3(3), para 19B(3) PRA).
102. The Severity Assessment (as defined in Sch. 3(3), para 19B(4) PRA) must be made after consultation with the Commissioner.
103. The type of case will dictate the handling of the Investigation, who is involved in approving the Terms of Reference, the provisions for interviews, the reporting by the IO, who is kept informed of progress, and any decisions regarding Discontinuance of the investigation.

Discontinuance of an investigation

104. The provisions which govern the discontinuance of an investigation of a Complaint, Recordable Conduct Matter or DSI Matter are set out in Schedule 3(3), para 21 PRA and r10 of the Complaints Regs. Guidance on discontinuance is provided in Section 10 of the IPCC Statutory Guidance.
105. An investigation can only be Discontinued if one of the following grounds is met:
- (a) In a Complaint, the complainant refuses to co-operate, such that it is not reasonably practicable to continue the investigation;
 - (b) In a Complaint, the Commissioner determines it is suitable for Local Resolution;
 - (c) The matter is vexatious, oppressive or otherwise an abuse of the procedure;
 - (d) The matter is repetitious;
 - (e) The Commissioner considers it is not reasonably practicable to proceed with the investigation.
106. Where the investigation is being conducted on behalf of the Commissioner, (save as provided in paragraph 107(c) below), the Commissioner has the power to make a decision to discontinue the investigation.
107. The Commissioner will need to seek the IPCC's permission to discontinue an investigation in the following cases:
- (a) It is an IPCC Supervised Investigation; or
 - (b) It is an IPCC Managed Investigation; or
 - (c) It is an investigation of a Complaint which the Commissioner was required to refer to the IPCC (even if the IPCC subsequently decided it was appropriate for it to be investigated on the Commissioner's own behalf).
108. The IPCC alone has the power to discontinue an IPCC Investigation.
109. If the Commissioner wishes to discontinue the investigation of a Complaint, the Commissioner is required to send the complainant written notice that he/she is minded to discontinue the investigation. The complainant has 28 days following the date of the Commissioner's letter to make representations. Any such representations must be taken into account by the Commissioner before a final decision to discontinue an investigation can be made.
110. Unless the Complaint relates to a Direction and Control matter, the complainant shall have a right of appeal to the IPCC against any decision to discontinue the investigation of the Complaint.

Special cases

111. The Commissioner will need to follow the accelerated procedure for Special Cases (see Sch. 3(3), para 20A-20I PRA) – where there is sufficient evidence to establish on the balance of probabilities Gross Misconduct and it is in the public interest for the Chief Constable to cease to be a member of Lincolnshire Police Force without delay.

j. Investigation of non-PRA matters

112. Part 3 of the Conduct Regs governs the handling of Non-PRA Matter Investigations. See also the relevant provisions within para 2.102-2.130 of the Home Office Guidance.
113. The Commissioner has responsibility for determining the Terms of Reference for the investigation.
114. The Commissioner will have responsibility for identifying and appointing the IO, who must:
 - (a) Have the appropriate level of knowledge, skills and experience to plan and manage the investigation;
 - (b) Not be an Interested Party; and
 - (c) Not work directly or indirectly under the management of the Chief Constable.

k. Outcome of an investigation

115. The purpose of an investigation is to establish the facts and to reach conclusions. In the case of a Complaint, the conclusion of the investigation may be that the Complaint is Upheld – but this does not necessarily mean that the Chief Constable will have a case to answer for Misconduct or Gross Misconduct.
116. See Sch. 3(3) para 20B-20I and para 22-24C of PRA, Sections 11 and 12 of the IPCC Statutory Guidance in relation to Complaints, Recordable Conduct Matters and DSI matters, r18 of the Conduct Regs and para 2.61-2.69 and 2.138-2.143 of the Home Office Guidance.
117. The type of case and also the type of investigation conducted will dictate what is to happen with a Final Report on the completion of an investigation. This includes what involvement the IPCC will have in consideration of the Final Report and recommendations as to the outcome of the investigation.
118. For the purposes of a Complaint, the type of investigation will also have an impact on the complainant's rights of appeal.
119. Essentially the decisions to be taken by the Commissioner upon receipt of the IO's Final Report and recommendations are:
 - (a) Whether the report indicates a criminal offence may have been committed and it is appropriate for the matter to be considered by the Director of Public Prosecutions;
 - (b) Whether the Chief Constable has a case to answer in respect of Misconduct or Gross Misconduct;
 - (c) What action, if any, the Commissioner is required to or will in their discretion take;
 - (d) In the case of a Complaint, whether the Complaint is upheld.
120. If there is a case to answer in respect of Gross Misconduct, the Commissioner must refer the case to a Misconduct Hearing;
121. If there is a case to answer in respect of Misconduct, the Commissioner may:
 - (a) refer the case to a Misconduct Hearing;

- (b) refer the case to a Misconduct Meeting;
- (c) take Management Action.

122. If there is no case to answer in respect of either Misconduct or Gross Misconduct the Commissioner may:

- (a) take no further action; or
- (b) take Management Action.

Note: the fact that a Complaint is upheld does not necessarily mean that there is a case to answer in terms of Misconduct or Gross Misconduct.

123. The type of case will also dictate who is to be notified of the outcome of an investigation and what information they are to receive.

124. An investigation may also identify non-conduct matters that require attention for example, a review of or revision to a policy or guidance. At the conclusion of any investigation the Commissioner should consider any ‘Lessons Learnt’ and action accordingly in consultation with the Chief Constable as appropriate.

125. At the discretion of the Commissioner the IO’s report can be shared with interested parties (including the complainant) should there be “no further action”. This is in the interests of openness and transparency.

Separate Guidance deals with the Commissioner's duties and responsibilities in relation to Appeals and also to Misconduct Proceedings.

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