

**OFFICE OF THE POLICE AND CRIME COMMISSIONER
FOR HUMBERSIDE
DECISION RECORD**

Decision Record Number: 01/2020

Title: Police Complaints Reform, PCC Responsibilities under new Legislative Framework (Police and Crime Act 2017)

Executive Summary:

Phase 3 of the Police Integrity reforms will see a number of changes to the police complaints process which are intended to increase transparency and impartiality, in addition to simplifying the current process and making it less adversarial for police officers who are the subject of a complaint.

The purpose of this report is to inform of changes to the management of police complaints reviews (formerly appeals) under the Police and Crime Act 2017, and to make recommendations to the PCC regarding decisions that must be made in order to meet the requirements of the legislation; notably which of three operating models to adopt within Humberside.

Decision:

It is recommended that the PCC opt for model 1, which meets the requirements of the legislation and ensures that the public receive a demonstrably impartial service when reviewing the outcome of police complaints on their behalf.

Background Report: Open

Police and Crime Commissioner for Humberside

I confirm I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with my code of conduct.

Any such interests are recorded below.

The above decision has my approval.

Signature



Date 28-12-2020

**POLICE AND CRIME COMMISSIONER
FOR HUMBERSIDE**

SUBMISSION FOR: DECISION

OPEN/CLOSED

Title: Police Complaints Reform, PCC Responsibilities under new Legislative Framework – Police and Crime Act 2017

Date: 27.01.2020

1. Executive Summary

Phase 3 of the Police Integrity reforms will see a number of changes to the Police Complaints process which are intended to increase transparency and impartiality, in addition to simplifying the current process and making it less adversarial for police officers who are the subject of a complaint.

The purpose of this report is to inform of changes to the management of police complaints reviews (formerly appeals) under the Police and Crime Act 2017. It seeks to make recommendations to the PCC regarding decisions that must be made in order to meet the requirements of the legislation; notably which of three operating models to adopt within Humberside.

2. Recommendation(s)

It is recommended that the PCC select Model 1 of the requirements of the Police and Crime Act 2017, allowing for oversight and complaints review function only.

Model 1 meets the requirement of the legislation and in terms of resourcing demand, is the least impactful option with minimal disruption to OPCC service delivery. Model 1 also ensures that the public receive a demonstrably impartial and transparent service when reviewing the outcome of police complaints and making recommendations to the Force.

The implementation of Model 1 enables the PCC to take a staged and measured approach to the police complaint reforms and can be changed to model 2 or model 3 at any time, following consultation with the Chief Constable.

3. Background

The Police and Crime Act 2017, introduced in February 2016, brought reforms to the management of police complaints which includes an enhanced role for PCCs. Notably:

- The reforms are intended to bring a more customer focused approach through increased transparency and independence to complaint handling by way of local oversight, whilst being less adversarial for police officers.
- The definition of a police complaint will broaden to 'any expression of dissatisfaction' within a police force, covering both service delivery and process as well as the conduct of individual officers and police staff.
- Non-recording decisions are no longer an option for AAs – however reforms allow for informal resolution of low level dissatisfaction issues.
- PCC becomes the Relevant Review Body (RRB) for the reviews of complaint outcomes from 1 Feb 2020.
- PCCs have the option to undertake additional functions within the complaint handling process. It is a matter for individual PCCs to decide which model to adopt. The decision is not binding and can be changed at any time, following consultation with the Chief Constable.

It is recommended that the PCC opt for model 1, which will allow the new process to embed, maintain demonstrable impartiality in terms of initial complaint handling vs undertaking of an impartial and independent review, and minimises disruption and unnecessary additional staffing expenditure within the OPCC. The three Models are summarised in paragraph 4 below.

4. Options/Risks

Model 1

- Mandatory requirement of LPBs (PCCs) as specified by the Act.
- Humberside Police is the AA for complaint handling and retains all complainant contact and resolution/investigation functions until an outcome is reached. At this stage the complainant may exercise their right to review, within 28 days of outcome letter from Force.
- PCC is the RRB. An appropriate role with delegated authority undertakes review of outcome, applying any relevant recommendations to the Force.

Model 1 will be resourced by realigning responsibilities within an existing OPCC role to ensure adequate capacity and demonstrable impartiality. Restructuring of associated posts with the OPCC will give consideration to the provision of resilience to cover annual leave and/or short term absences to ensure that reviews are dealt with in accordance with statutory requirements.

Model 2

- **PCC (role with delegated authority) receives all expressions of dissatisfaction, logs and resolves where possible, passes formal complaints to the Force for investigation (where dissatisfaction cannot be resolved to complainant's satisfaction)**
- **Humberside Police is the AA for formally recorded complaints and investigation functions until an outcome is reached. At this stage the complainant may exercise their right to review, within 28 days of outcome letter from Force.**
- **PCC is the RRB. A role with delegated authority undertakes review of outcome, applying any relevant recommendations to the Force.**

Model 3

- **PCC (role with delegated authority) receives all expressions of dissatisfaction, logs and resolves where possible, passes formal complaints to the Force for investigation (where dissatisfaction cannot be resolved to complainant's satisfaction)**
- **Humberside Police is the AA for formally recorded complaints and investigation functions until an outcome is reached.**
- **The PCC (role with delegated authority) retains responsibility for all complainant contact throughout the course of a resolution/investigation, including informing them of the case outcome and review rights.**
- **PCC is the RRB. A role with delegated authority undertakes review of outcome, applying any relevant recommendations to the Force.**

Functions within Model 2 and 3 are currently performed by PSD personnel within the Force. As the complaint definition, outcomes and recording practices change under the Act, an accurate prediction of future demand for both complaints and reviews is challenging at this early stage.

Should the PCC opt for Models 2 or 3, additional staffing will be required to ensure adequate resource for both an extensive customer service function and independent management/adjudication of reviews. Maintaining demonstrable impartiality may prove problematic within a small team who are addressing both issues of dissatisfaction and final outcome reviews; which could conceivably lead to loss of public confidence and/or legal challenge.

There is a risk that levels of demand under any model, have the potential to exceed capacity. The provision of a third party service provider is being explored in order that review adjudication can be undertaken independently on a non-contracted basis, in the event of exceptional demand.

- 5. Financial Implications**
None under Model 1. The PCC may wish to consider realignment of the budget (which currently covers the cost of review function undertaken by the Force) should the change to role responsibility result in increased salary expenditure for the OPCC. Models 2 and model 3 will require recruitment.
- 6. Legal Implications**
None. Extensive supporting statutory guidance from HO and IOPC.
- 7. Driver for Change/Contribution to Delivery of the Police and Crime Plan**
Statutory requirement
- 8. Equalities Implications**
N/A
- 9. Consultation**
N/A
- 10. Media Information**
N/A
- 11. Background documents**
N/A
- 12. Publication**
Open

PLEASE COMPLETE AND APPEND THE FOLLOWING TABLE TO ALL REPORTS THAT REQUIRE A DECISION FROM THE COMMISSIONER

This matrix provides a simple check list for the things you need to have considered within your report. If there are no implications please state

I have informed and sought advice from HR, Legal, Finance, OPCC officer(s) etc. prior to submitting this report for official comments	*****
Is this report proposing an amendment to the budget?	No

Value for money considerations have been accounted for within the report	Yes
The report is approved by the relevant Chief Officer	NA
I have included any procurement/commercial issues/implications within the report	NA
I have liaised with Corporate Communications on any communications issues	NA
I have completed an Equalities Impact Assessment and the outcomes are included within the report	NA
I have included any equalities, diversity and or human rights implications within the report	NA
Any Health and Safety implications are included within the report	NA
I have included information about how this report contributes to the delivery of the Commissioner's Police and Crime Plan	NA