

NORTHERN JOINT POLICE BOARD

18 JANUARY 2008

COMPLAINTS SUB-COMMITTEE

Report by the Clerk

Agenda Item	
Report No	

Summary

This Report invites the Board to approve Complaints Handling Procedures as set out in the Appendix to this report and to establish an ad hoc Complaints Sub-Committee to deal with complaints received by the Board concerning:

- (a) decisions reached or actions taken by the Board itself or;
- (b) any other complaints, excluding complaints about either (i) a Chief Officer, in terms of the Police (Conduct)(Senior Officer)(Scotland) Regulations 1999, or (ii) quality of service complaints about Northern Constabulary; a process for each of these latter categories already being in place.

Background

1. Section 42 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 requires the Police Complaints Commissioner for Scotland (PCCS) to secure the maintenance by each relevant authority of suitable arrangements for the handling of relevant complaints and to keep under review all such arrangements. Section 42 also provides that the PCCS can make recommendations and give advice for the modification of such arrangements as appear from his other functions to be necessary or desirable. The PCCS has asked each police authority/Joint Board for a copy of its agreed arrangements for handling complaints received by that authority/Board.
2. Draft Complaints Handling Procedures have been under discussion by the Scottish Police Authorities Conveners Forum and by representatives of the Clerks to the various police authorities/Joint Boards, with a view to a common approach to complaint handling and reporting styles. These draft Procedures were considered by the Complaints Working Group at its meeting on 8 January, who recommended their general adoption, subject to amendment to certain proposed timescales to reflect the circumstances facing this Board. The Minutes of that meeting are to be found elsewhere on this agenda.

Procedures

3. The commentary on the draft Procedures presented to the Conveners Forum expressed regret that, when the 2006 Act was introduced, the opportunity was not taken to update other areas of legislation pertinent to the issue of 'complaints' against police bodies, as this omission had caused some difficulty in the creation of standardised complaints handling procedures. However, the draft procedures appended to this report, which are closely modelled on those presented to the Conveners Forum, seek to take this into account.

4. The appended procedures set out four categories into which complaints received by the Board would fall, together with an appropriate method for handling each of these:
 - i. Decisions reached or actions taken by a police authority
 - ii. About a Chief Officer in terms of the Police (Conduct) (Senior Officer) (Scotland) Regulations 1999
 - iii. About the police force subject of oversight by the relevant police authority (i.e. Northern Constabulary)
 - iv. Any complaint outwith the other specified categories
5. The procedure for complaints in category **ii** above is laid down in the 1999 Regulations. This Working Group already has a remit to give preliminary consideration to such complaints and to make recommendations on their disposal to the Board. The procedure for **iii** above is set out in the Memorandum of Understanding between ACPOS and the Scottish police authorities (Appendix B to the draft Procedures appended to this report).

Complaints Sub-Committee

6. In relation to categories **i.** and **iv** above, the Complaints Working Group at its meeting on 8 January 2008 agreed to recommend that the Board appoint a small ad hoc Sub-Committee of 5 Members, with delegated powers to deal specifically with complaints falling into categories **i** and **iv** above. The view was taken that, particularly with the assistance of video-conferencing facilities, such a small body should be able to achieve the recommended 7 week response deadline. (The draft presented for discussion to the Conveners Forum and to Clerks proposed a 5 week deadline; however, it is considered that the logistical difficulties facing this Board make it unlikely this could be achieved.)
7. Members will recall previous legal advice that, given the Convener's role as the Board's representative on any Police Appeals Tribunal, he should not sit on the Complaints Working Group. The Board may therefore wish the Vice-Convener, who chairs the Complaints Working Group, also to chair the Complaints Sub-Committee.

Recommendation

The Board is asked:

- (i) to approve the Complaints Handling Procedures appended to this report;
- (ii) to submit a copy of these to the Police Complaints Commissioner for Scotland; and
- (iii) to appoint a Complaints Sub-Committee comprising 5 Members, with delegated powers to deal with complaints falling into categories **i** and **iv** as set out in the appended Procedures.

Signature

Designation Clerk

Date 10 January 2008

Author Mrs R Moir, Assistant Clerk

Northern Joint Police Board

Complaints Handling Procedures

1. Categories of complaint received by police authorities

1.1 The type of complaint that will be received by police authorities will fall into one of the agreed following categories:

- (a) About the decisions reached or actions taken by a police authority
- (b) About a Chief Officer in regard to the Police (Conduct)(Senior Officer)(Scotland) Regulations 1999
- (c) About the police force subject of oversight by the relevant police authority
- (d) Any complaint outwith other specified categories.

2. Complaint Handling Procedures

2.1 Where a police authority receives a written intimation of a complaint as defined by the Police, Public Order and Criminal Justice (Scotland) Act 2006, the Clerk, or other nominated officer, shall record the complaint and within 3 working days acknowledge by correspondence receipt of the complaint.

2.2 Thereafter the Clerk, or other nominated officer, shall take such steps as are considered reasonable to gather sufficient information to initially determine the nature and context of the complaint, further determine into which category it should be placed and thereafter initiate the appropriate investigatory process (a diagrammatic overview is attached as Appendix A). In the context of this initial determination, the Clerk, or other nominated officer, may elect to engage the services of an external person or organisation in their consideration of the complaint.

2.3 Where the nature of the complaint is found to be in regard to:

2.3.1 Decisions reached or actions taken by a police authority:

2.3.1.1 Complaints of this type will relate to allegations of maladministration by the police authority in regard to its actions as a corporate body.

2.3.1.2 Where the Clerk or other nominated officer has taken such steps to gather sufficient information to initially determine that the complaint should be considered within this category, information relevant to the complaint will then be referred to a designated Sub-Committee for consideration of the allegation. The Sub-Committee will have delegated powers to agree a finding in respect of the complaint on behalf of the police authority. The finding will be presented to the subsequent meeting of the full police authority.

2.3.1.3 The Sub-Committee may elect to engage the services of an external person or organisation in their consideration the complaint.

2.3.1.4 The Clerk, or other nominated officer, will advise the complainer in writing of the finding reached by the Sub-Committee. This will be within a period of 7 weeks from acknowledgement of the complaint by the police authority. Where this timescale cannot be complied with, the Clerk, or other nominated officer, will advise the complainer in writing of reasons for the delay, and provide subsequent updates as appropriate.

2.3.1.5 Where a complainer remains dissatisfied either with the finding in regard to the initial complaint, or in regard to the manner in which it has been handled, then the Clerk, or other nominated officer, will advise the complainer of their right to refer their complaint for consideration by the PCCS.

2.3.2 A Chief Officer, in terms of the Police (Conduct)(Senior Officer)(Scotland) Regulations 1999:

2.3.2.1 Complaints of this type relate to circumstances where a report is received by a police authority alleging an act or omission by a senior officer that amounts, or may amount, to misconduct.

2.3.2.2 Where the Clerk or other nominated officer has taken such steps as may be necessary and reasonable to gather sufficient information to initially determine that the complaint should be considered within this category, the Clerk, or other nominated officer, shall commence the statutory procedures within the above legislation.

2.3.2.3 Regulation 5 (1) of the 1999 Regulations states that:
“Where a report, allegation or complaint is received from which the police authority considers that it may reasonably be inferred that an act or omission of a senior officer amounts, or may amount, to misconduct, the police authority for the force of which that officer is a constable shall appoint an investigating officer to investigate the matter.”

2.3.2.4 Regulation 5 (3) states that:
“Where in the opinion of the police authority a report, allegation or complaint [received]:

- b) *does not contain any allegation of an act or an omission of a senior officer which would, if proven, amount to misconduct on his part,*

the police authority may make a finding to that effect and decide that no action shall be taken under these Regulations in relation

to the matter, and in that case the police authority shall forthwith notify the senior officer in writing.”

2.3.2.5 Regulation 5 (4) states that: *“Where in the case of any report, allegation or complaint referred to in paragraph (1) the police authority considers that it -*

- a) *is unfounded or frivolous in nature; or*
- b) *contains allegations of acts or omissions of a senior officer which would, if proven, amount to misconduct of a minor or trivial nature only,*

the police authority may make a finding to that effect and decide that no action shall be taken under these Regulations in relation to the matter and in particular that an investigating officer shall not be appointed, and in that case the police authority shall forthwith notify the senior officer in writing.”

2.3.2.6 The 1999 Regulations specify misconduct proceedings taken against senior officers and do not, in the general sense, reflect the wider ethos of complaint handling procedures invoked within the 2006 Act in creating the role and function of the PCCS.

2.3.2.7 Where, in terms of the 1999 Regulations, a police authority makes a finding as described above at paragraph 2.3.2.4 or 2.3.2.5, the Clerk, or nominated officer, shall ensure that a minute of the decision is recorded whereby there is a transparency of process to identify: what decisions were taken; what evidence there was to support such decisions; and that the decisions reached were, in consideration of all of the circumstances, ‘reasonable’.

2.3.2.6 Such transparency of process is necessary to meet the standards of complaints handling procedures expected by the PCCS.

2.3.3 The police force subject of oversight by the relevant police authority;

2.3.3.1 Complaints of this type relate to Quality of Service complaints intimated by members of the public in respect of individual police forces.

2.3.3.2 The 2006 Act formalised procedures whereby members of the public may intimate such complaints as indicated above. In the terms of the Act ‘the Appropriate Authority’ to respond to such complaints is the Chief Constable; however, it is recognised that, because of the oversight function exercised by police authorities, such complaints may initially be referred to police authorities.

2.3.3.3 Where a police authority receives such a Quality of Service complaint, the Clerk or other nominated officer shall record the complaint and within 3 working days acknowledge by correspondence receipt of the complaint. Such correspondence will also advise the complainer that, in terms of the 2006 Act, 'the Appropriate Authority' to respond to their complaint is the Chief Constable, and accordingly the complaint has been forwarded for the information and attention of the relevant Chief Constable.

2.3.3.4 The Clerk, or other nominated officer, shall thereafter forward the complaint for the attention of the Chief Constable of the relevant force.

2.3.3.5 The complaint will thereafter be investigated under the terms of the Memorandum of Understanding (MOU) agreed between the Association of Chief Police Officers in Scotland (ACPOS) and the Scottish police authorities. A copy of the MOU is attached as Appendix B.

2.3.4 Any complaint outwith other specified categories;

2.3.4.1 This 'catch-all' category of complaint has been created as a result of the Police (Conduct)(Senior Officer)(Scotland) Regulations 1999 not having been updated to reflect the wider ethos of complaint handling procedures expressed within the 2006 Act.

2.3.4.1 The 1999 Regulations cover the situation where a police authority receives a report alleging an act or omission by a senior officer that amounts, or may amount, to misconduct. The role of the PCCS under the 2006 Act is not, however, limited to complaints alleging misconduct in terms of the 1999 Regulations.

2.3.4.2 Where the Clerk or other nominated officer has taken such steps to gather sufficient information to initially determine that the complaint should be considered within this category, the Clerk or other nominated officer will refer information relevant to the complaint to a designated Sub-Committee for consideration of the allegation. The Sub-Committee will have delegated powers to agree a finding in respect of the complaint on behalf of the police authority. The finding will be presented to the subsequent meeting of the full police authority.

2.3.4.3 The Sub-Committee may elect to engage the services of an external person or organisation in their consideration the complaint.

2.3.4.4 The Clerk, or other nominated officer, will advise the complainer in writing of the finding reached by the Sub-Committee. This will be within a period of 7 weeks from acknowledgement of the complaint by the police authority.

Where this timescale cannot be complied with, the Clerk, or other nominated officer, will advise the complainer in writing of reasons for the delay, and provide subsequent updates as appropriate.

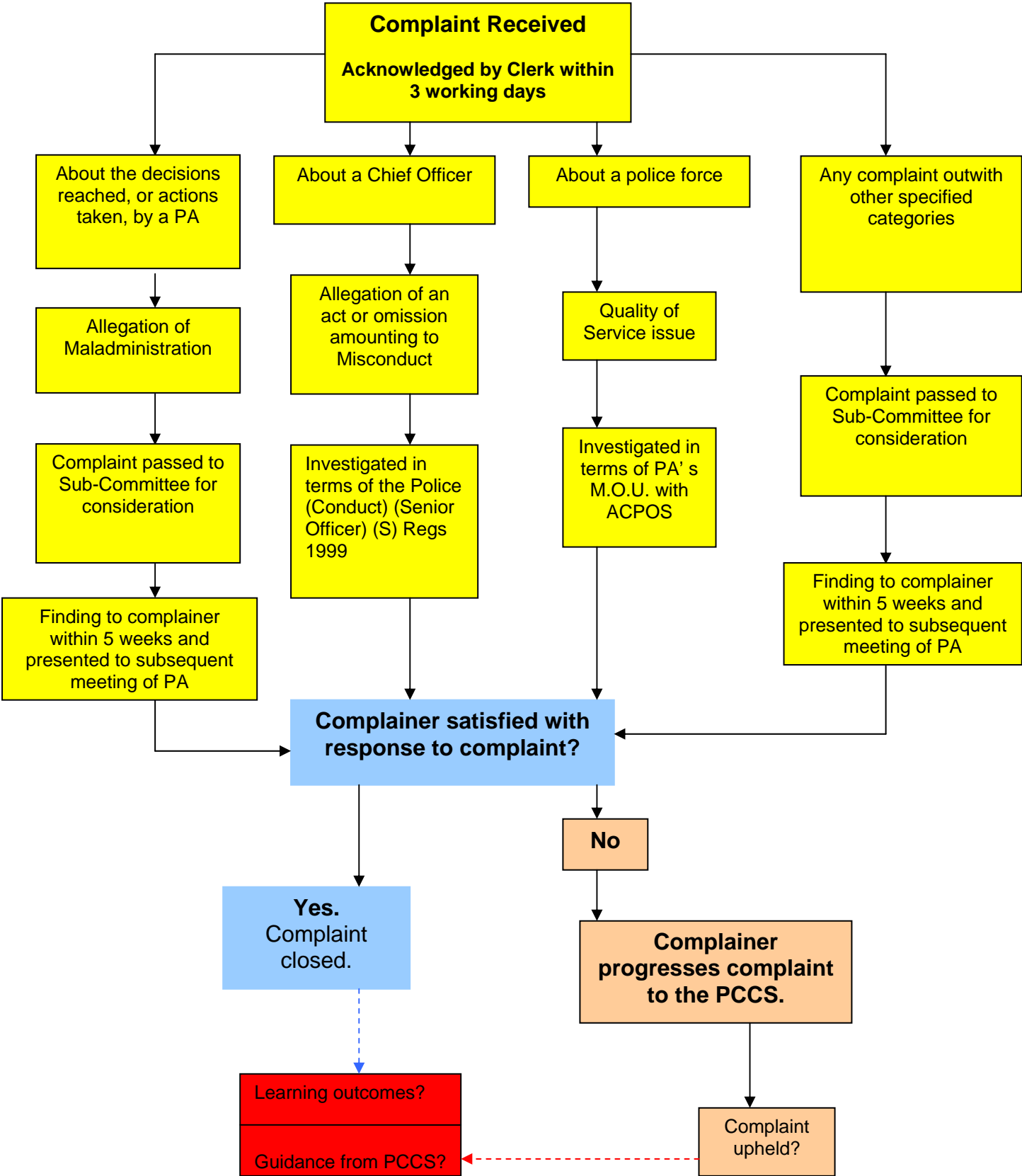
2.3.4.5 Where a complainer remains dissatisfied with either the finding in regard to the initial complaint, or the manner in which it has been handled, then the Clerk or other nominated officer will advise the complainer of their right to refer their complaint for consideration by the PCCS.

3. Request by a police authority for an examination by the PCCS of the manner of handling of a complaint

3.1 It is envisaged that any request of this nature by a police authority will only be initiated in the unusual circumstances of the authority having to respond to a complaint found to be of a frivolous, malicious or vexatious intent.

3.2 Where a police authority, as the 'Appropriate Authority' for a complaint, has taken all reasonable steps to deal with any such complaint, and the complainer remains unreasonably dissatisfied with the manner in which the complaint has been handled, the police authority may, by virtue of section 35 (1)(b) of the 2006 Act, request that the PCCS examine the manner in which the relevant complaint has been dealt with.

Appendix A - Categories of complaint received by a Police Authority



Appendix B**Memorandum of Understanding between ACPOS and the Scottish police authorities in regard to agreed procedures relating to the handling of Quality of Service complaints received directly by a police authority in respect of their relevant police force.****1. Background**

1.1 Police authorities have a requirement to ensure that they have in place an efficient and effective system to record, investigate and respond to complaints that are received by them. The system must ensure transparency of process to identify: what decisions were taken, who they were taken by; what evidence was available to support the decision, and that the decisions reached were, in consideration of all the circumstances, 'reasonable'.

1.2 The enactment on 1 April 2007 of the Police Public Order and Criminal Justice (Scotland) Act 2006 formalised the procedures whereby members of the public may intimate Quality of Service complaints in respect of individual police forces. In terms of the Act, 'the appropriate authority' to respond to such complaints is the Chief Constable. It is recognised that, because of the oversight function exercised by police authorities, such complaints may be initially referred to authorities. This MOU is necessary to set out procedures by which police authorities will respond to such complaints that have been received by them in respect of Quality of Service complaints.

2. Purpose

2.1 This MOU sets out agreed procedures between ACPOS and Scottish police authorities in respect of Quality of Service complaints received directly by a police authority in respect of their relevant police force.

2.2 The recording standard for a Quality of Service complaint has been agreed by ACPOS under the following headings relating to the actions of a force;

- Policing policy, practice or procedure – *“such as acting outwith legislation, guidance or accepted practices.”*
- Service delivery – *“such as policing response, to include policing presence and the time and type of response.”*
- Service outcome – *“such as a person being unhappy with the result of a police contact resulting in a non-conduct related expression of dissatisfaction.”*

3 Agreed procedures

3.1 Where a police authority receives written intimation of a complaint from which it is alleged that a force has not maintained an expected level of service delivery, and that such lapse in service delivery meets the criteria of a Quality of Service complaint, the Clerk or nominated officer will record the complaint and acknowledge receipt of same to the complainer. Such acknowledgement will explain to the complainer that, in terms of the Police, Public Order and Criminal Justice (Scotland) Act 2006 'the appropriate authority' to respond to such a complaint is the Chief Constable and, accordingly, the complaint has

been forwarded for the information and attention of the Chief Constable of the relevant force.

3.2 On receipt of the complaint the Chief Constable will pass the details to the officer delegated to deal with Complaints about the Police, who may instruct an enquiry. The matter may be enquired into and the complainer will be responded to in accordance with agreed procedures as if the complaint had been received directly by the force in the first instance. On the complaint being addressed, a copy of the response will be forwarded to the Clerk or nominated officer.

3.3 Where the complainer remains dissatisfied with the way in which the complaint has been addressed he/she may elect to directly complain to the Police Complaints Commissioner for Scotland in relation to the way in which the complaint has been handled by the force on behalf of the Chief Constable.

3.4 Should the complainer be dissatisfied with the response to the complaint received from the force, the complainer may also elect to contact the police authority advising them of an alleged incidence of deficient performance by the force. On receiving such an allegation the Clerk or nominated officer will acknowledge receipt to the complainer.

3.5 The Clerk or nominated officer will advise the Chief Constable of the further allegations in continuance of the initial complaint. The Clerk or nominated officer will thereafter arrange for the relevant Committee or Sub-Committee designated by the authority to review Complaints, to consider the manner and process by which the initial complaint has been dealt with by the force on behalf of the Chief Constable.

3.6 The Clerk or nominated officer will thereafter write to the complainer advising of the outcome of the review undertaken by the police authority in respect of his/her complaint, and provide a copy of the correspondence to the Chief Constable.

3.7 Where the complainer remains dissatisfied with the outcome, and had earlier decided to complain to the police authority in the first instance rather than the PCCS, the complainer retains the right to further complain directly to the PCCS. Such a complaint may be in continuance of the initial complaint regarding the force, or may relate to the process of review undertaken by the police authority, or both.

3.8 ACPOS and the Scottish police authorities recognise that, following the consideration and review of such Quality of Service complaints, learning outcomes may arise to support future service delivery along with possible guidance subsequently issued by the PCCS.

3.9 A diagram illustrating the process is attached as Appendix 1.

Appendix 1: Quality of Service Complaint – Direct to Police Authority

