



## **Policy For Dealing with Unreasonable/ Unreasonably Persistent/Vexatious Complaints**

### **1. Introduction**

- 1.1 The Police and Crime Commissioner (PCC) is committed to dealing with complaints fairly, thoroughly, impartially and in a timely way. The PCC staff are committed to respond with patience and understanding to the needs of all complainants and to seek to resolve their complaints. Generally, dealing with a complaint is a straight forward process following established procedures.
- 1.2 However, there are times when the complainant is not satisfied with the resolution offered and some may attempt to pursue their complaint in an unreasonable way. Their actions and behaviour may impede the proper investigation of their complaint or may impede the normal running of OPCC business. This may lead to significant resource implications which are out of proportion with the nature/seriousness of the original complaint. The PCC would define such behaviour as 'unreasonable', 'unreasonably persistent' or 'vexatious'.
- 1.3 This policy is designed to help the PCC and staff to identify and deal with unreasonable, unreasonably persistent and vexatious complaints in a demonstrably consistent and fair way. It assists staff to understand clearly what is expected of them, what options for action are available, and who can authorise these actions.

### **2. Scope**

- 2.1 This policy, and the supporting Managing Service User Contact Policy, cover:
- (a) all complaints capable of being made under the OPCC complaints procedure, these relate to:
    - the level of service in respect of complaints about an employee of the OPCC or a contractor engaged on behalf of the OPCC;
    - complaints about the conduct of an employee of the OPCC or of a contractor engaged on behalf of the OPCC;
  - (b) complaints about the Chief Constable of Lancashire Constabulary;
  - (c) complaints in relation to the work of the Independent Custody Visitors (ICVs);



(d) complaints received under the OPCC's Anti-Fraud and Anti-Corruption Strategy.

2.2 This policy does not cover complaints about the PCC. Any actions and behaviours by someone who has complained about the PCC which are considered to fall within the remit identified in Section 7, will be dealt with by the Police and Crime Panel for Lancashire in accordance with their agreed procedure.

2.4 This policy does not cover complaints or any actions and behaviours by someone arising from a request for information under the Freedom of Information (FOI) Act. Such matters will be considered on a case by case basis in accordance with the FOI Act 2000, taking account of the Information Commissioner's Office (ICO) guidance and any case law emerging from the Tribunal decisions.

2.5 Similarly, this policy does not cover complaints or any actions or behaviours by someone arising from a subject access request under the Data Protection Act 2018 and UK GDPR. Such matters will be dealt with by the OPCC DPO/Information Commissioners Office on a case by case basis.

### **3. Actions and Behaviour of Unreasonable/ Unreasonably Persistent / Vexatious Complaints**

3.1 Listed below are some of the actions and behaviours that the PCC considers to be unreasonable, unreasonably persistent and/or vexatious. The list is not exhaustive and will on occasion need to be reviewed to take account of differing factors and new legislative requirements.

- Refusing to specify clearly the grounds of their complaint, despite offers of assistance from the staff of the OPCC.
- Refusing to use the relevant complaints procedure of the OPCC despite being advised to do so, including appeal/review processes.
- Refusing to accept that issues are not within the remit of the complaints procedure despite having been provided with information about the procedure's scope.
- Refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
- Insisting on the complaint being dealt with in ways which are incompatible with the OPCC's adopted complaints procedure or with good practice.



- Making what appear to be groundless complaints about the staff dealing with the complaint and seeking to have the member of staff dismissed.
- Changing the basis of the complaint as the investigation proceeds and/or denying statements the complainant made at an earlier stage.
- Introducing irrelevant new information into a complaint which the complainant expects to be taken into account and commented on, or raising detailed but unimportant questions or comments and insisting they are fully answered.
- Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved.
- Adopting a 'scattergun' approach; pursuing a complaint or complaints with the staff of the OPCC and, at the same time, with others e.g. the Independent Office for Police Conduct (IOPC), a Member of Parliament/a local Councillor/local police/solicitors.
- Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being looked into, for example by submitting repeat complaints, by excessive telephoning or sending emails to a number of staff, writing regular letters/emails and expecting responses more quickly than the timescales set out in the procedure or contacting different people to try and secure a different outcome.
- Submitting repeat complaints after the complaints processes have been completed, essentially about the same issues, with additions/variations which the complainant insists make these 'new' complaints which should be put through the full complaint's procedure.
- Refusing to accept the OPCC's decision – repeatedly arguing the point and complaining about the decision.
- Using abusive, threatening or intimidating language or behaviour e.g. swearing and use of exaggerated and unpleasant language in correspondence, to employees, or about employees.
- Using bullying, physical or psychological threats as a means to gain leverage with an employee.
- Attempting to make contact in a personal capacity (e.g. on social media or personal emails or phone numbers).



#### **4. How the PCC will deal with such complaints**

4.1 Each complaint submitted to the OPCC will be assessed on its own merits. Where a member of staff who is dealing with a complaint has grounds for concern that a complainant may be pursuing their complaint in an unreasonable way, they shall refer the matter to the Head of Governance and Accountability for consideration.

4.2 The Head of Governance and Accountability will consider the complaint fully and ensure that the relevant procedure has been correctly followed and that they have addressed each element of the complaint. They will also check whether any new issues are raised which are significantly different from the original complaint.

4.3 Having considered the circumstances of the case, the Head of Governance and Accountability may come to the view that the behaviour of the complainant falls within the scope of this policy and that the complaint should be treated as unreasonable, unreasonably persistent and/or vexatious. In all cases, before taking any action under Section 5, the Head of Governance and Accountability will give the complainant a written warning that if their actions continue the OPCC will deal with their complaint in accordance with this policy and explain why.

4.4 If the complainant persists with the complaint in an unreasonable, unreasonably persistent or vexatious manner, the Head of Governance and Accountability will determine what action will be taken in accordance with the provisions set out in this policy.

4.5 The decision to treat a complaint as unreasonable, unreasonably persistent and/or vexatious and to determine what action is to be taken will be made by the Head of Governance and Accountability, following consultation with the Deputy Chief Executive, or in his/her absence, the Chief Executive. Decisions will be made having regard to the circumstances of the case.

4.6 The Head of Governance and Accountability must notify the other of any decision to treat a complaint as unreasonable, unreasonably persistent or vexatious. This information will be monitored and kept on a central database.

4.7 If a complainant considers that they would benefit from additional assistance in pursuing their complaint, the use of an independent advocate might be helpful to both parties.



## 5. Action

5.1 Any action taken by the Head of Governance and Accountability should be appropriate and proportionate. The possible options include but are not limited to:

- An early use of mediation by inviting the complainant to a face-to-face meeting. At least two personnel from the OPCC will meet with the complainant.
- Continue to proceed with the complaint under the relevant procedure and provide the complainant with one point of contact, who will keep a record of all contacts made.
- In a letter, setting out a code of behaviour and responsibilities for the parties involved if the OPCC is to continue investigating the complaint.

5.2 If these terms and conditions are contravened by the complainant, then the Head of Governance and Accountability may consider implementing other action as listed below:

5.2.1 Decline or limit open contact with the complainant either in person, by telephone, by letter or e-mail, provided that one form of contact remains open via a nominated contact, in line with the Managing Service User Contact Policy.

5.2.2 Advise the complainant that they have exhausted the complaints procedure and that there is nothing more to add to the points raised. Explain to them that further contact with the OPCC will serve no useful purpose. The complainant will also be notified that their complaint is being treated as an unreasonable, unreasonably persistent or vexatious complaint and, as such, correspondence is at an end and that no further correspondence about the same matter will be acknowledged.

5.2.3 A record of all contacts made by the complainant thereafter must be kept. The correspondence will be read but, where it contains no fresh evidence which affects the decision, it will not be acknowledged but merely placed on the file.

5.2.4 Where a complainant continues to behave in a way which is unacceptable, the OPCC reserves the right to suspend all contact with the complainant while it seeks legal advice.



## **6. Review**

- 6.1 The decision to treat a complaint as unreasonable, unreasonably persistent or vexatious will be reviewed by the Head of Governance and Accountability on a regular basis. The frequency of review will be determined depending upon the nature of the complainant's behaviour and the circumstances of the case.
- 6.2 The complainant will be informed of the result of this review if the decision to apply this policy to them is changed or extended.
- 6.3 The Head of Governance and Accountability will keep the Deputy Chief Executive or Chief Executive (whichever was consulted on the initial decision) updated about the review.

## **7. Vexatious complaints and the conduct of the PCC and Deputy PCC**

- 7.1 The Police and Crime Panel for Lancashire must consider every new complaint received in relation to the conduct of the PCC or the Deputy PCC. The Police and Crime Panel have been given specific functions under the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 as to the handling and determination of complaints against the PCC or Deputy PCC. The decision as to whether a complaint is unreasonable, unreasonably persistent and/or vexatious, is taken by the Police and Crime Panel. The decision of the Police and Crime Panel is final.

## **8. Dealing with complainants who are unreasonably persistent or vexatious in the future**

- 8.1 Even though an individual has made complaints that were unreasonable, unreasonably persistent and/or vexatious in the past, it cannot be assumed that their future complaints will be made in the same manner. If a new complaint, on a separate matter, is received it must be treated on its merits and, in such cases, the Head of Governance and Accountability should review the situation before deciding whether it would be reasonable to limit the point of contact to a named employee and specify the method of communication which the complainant should use.

## **9. Safety and Welfare of Staff**

- 9.1 Where a complainant's behaviour is so extreme that it threatens the immediate safety and/or welfare of the OPCC's staff, the Head of Governance and Accountability will consider other options, for example reporting the matter to the Police or taking legal action. Such incidents should be logged appropriately.



## 10. References

10.1 This policy has been prepared having had regard to the following:

Local Government Ombudsman guidance

Police Reform Act 2002

Information Commissioners Office – Vexatious and Repeated Requests Guidance

The Police Reform and Social Responsibility Act 2011

The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2011

Independent Police Complaints Commission Statutory Guidance

2020

The Police (Complaints and Misconduct) Regulations 2024

Managing Service User Contact Policy