

APCC Response – IOPC Chief Constable Complaints and Accessibility Documents

Introduction

The Association of Police and Crime Commissioners (APCC) is the national body that supports Police and Crime Commissioners (PCCs), and other local policing bodies across England and Wales, to provide national leadership and influence change in the policing and criminal justice landscape.

Please find below the APCC response to the consultation about the documents set out above.

Some PCCs may have submitted responses to you directly, but this document sets out a summary of the key issues raised by PCC Offices in their individual responses to us.

The majority of their responses relate to the document on Chief Constable Complaints, but a few were on the Accessibility document.

Chief Officer Complaints

Although the majority of respondents found the document helpful in highlighting key points on handling Chief Constable complaints, there were a number of key queries:

- The document seems to be aimed at Chief Constables and equivalents (rather than other Chief Officers e.g. DCCs or ACCs), but this is not entirely clear from the heading, and there are some anomalies in the document that suggest otherwise. For instance, the reference on page 5 in the paragraph after the second case study, which talks about referring the matter back to the **force** for reasonable and proportionate handling. Clearly this is not appropriate for a Chief Constable complaint. Also in the same paragraph there is reference to the IOPC carrying out an independent or **directed** investigation – my understanding was that in the case of Chief Constables, independent IOPC investigations would always be undertaken. There is a similar reference to referring a case back to force in the case study on page 8. It would be helpful to put the matter of who the guidance applies to beyond doubt in the introduction – that the document refers to the handling of complaints against Chief Constables and equivalents, (rather than using the term ‘Chief Officer’) and fix the glitches in the current document.
- There were some comments about the order of the document being a bit confusing, with one suggesting the following order of headings to make matter clearer – (expressions of dissatisfaction (including info on eligibility), press releases, reasonable and proportionate handling, referrals to IOPC. Others commented that a process map would be a useful inclusion in this document to help clarify the process.
- There were a number of respondents that observed that case studies all showed complainants that were reasonable and accepting of explanations given – and concerned that there was no indication given about handling of unreasonable complaints (I am aware that separate guidance is being developed on this but it might be useful to refer to it in the document). In addition one respondent wondered whether there should be a mechanism in place to prevent a complaint against a Chief Constable because this arose from dissatisfaction with PSD handling of their original complaint – would this be covered in the unreasonable complaints guidance?

- There remains some confusion about thresholds and whether the indication test was going to be set out in guidance (for instance some respondents commented that they weren't sure why the complaint discussed in the case study on page 8 had been referred to the IOPC in the first place, and another wondered how much fact finding the LPB would be able to do before the indication test, or whether this would be considered crossing into investigation). It was also thought that a list of specific factors determining eligibility would be helpful (not just case studies), as well as factors that would help determine where a Chief Constable could be reasonably considered to be involved (as the current explanation was thought to be confusing and respondents weren't sure whether the Chief Constable could be considered responsible for the development of policy, its implementation, its interpretation or, if all of this was delegated, whether he or she had any responsibility for ensuring effective delegation arrangements – another commented that they were struggling to see the difference between case study 3 and case study 5 in terms of how they had been handled, particularly since the Chief Constable is the data controller and responsible for information held on the police system in the case study 3). I suspect that most of the issues around eligibility, adversely affected, thresholds and indication tests, etc, will be in wider guidance, but it would be useful to include pointers to the relevant section here.
- GDPR – there were several comments on this issue. Respondents noted the comment on page 8 that there needed to be a balance between obligations to investigate and obligations to data protection requirements. Several felt it would be useful to have guidance on the principles to consider in doing this, others queried whether they need to get the complainant's permission before referring to the force a case where it was determined the Chief Constables was not involved. It might therefore be helpful to include a reference about ensuring that data sharing agreements have been updated to reflect the LPB's role.
- Timelines – it was noted that there were no specific timelines for handling matters in this document, and respondents wondered if there should be, or at least an indication of how to respond, should there be complaints about the timeliness of handling the original complaint?
- There was also some query about guidance on the actual recording and logging of complaints – though I assume this will be set out in the wider guidances to be published before implementation.
- Appeals / reviews – one respondent thought that the wording in the second case study at the end of page 9 was confusing both in terms of the number of reviews that might be available and who would handle them. It could be read to suggest that the complainant had more than one right of review for each individual involved and that the force would deal with some of these appeals and the LPB with the other. In fact, I think the LPB would deal with one and the IOPC with the other.
- Finally, there was a query about what happens where a complainant insists that their complaint against the Chief Constable is recorded, even where the LPB has advised that it does not meet the threshold for this. Will the LPB then be obliged to refer the case to IOPC?

Accessibility

This was generally thought to be a helpful document and we received fewer comments and queries on it, but there were a few as set out below:

- Complaints by people under 18 – the text states that they will need **more** regular updates than others but it would be helpful to understand what ‘more’ means in practice. Another commented that Appropriate Adults might be able to support, where there was no parent or guardian to do so.
- People without English as their first language – whilst the text explains that provision should be made for translation services, there were queries about whether this would also involve correspondence in a different language, and whether this implied that information about the complaints process also needed to be published in different languages?
- People with disabilities/health issues – a number of points raised here:
 - On the issue of trying to find out more about a complainant’s condition to better help them, there were concerns raised about what to do where the complaint refused to provide any further information beyond declaring they had a disability/health issue of some sort. The text would seem to imply that the handler could not then assume impact or provision?
 - Is there any information about which websites are recognised and accredited in the context of using websites for research?
 - Is there to be any training to support handlers on these issues?
 - Support from additional agencies – if a complaints handler directs a complainant to a service which then fails to support them, what are the implications for the complaints process and could this result in a further complaint against the PCC?
 - Is there a standard national sign language video to use or does one need to be developed locally?
- Complainant is vulnerable or disadvantaged in some other way
 - A query on how the complaints handler would know this, beyond questioning the individual, and whether this implies that all complainants should initially be treated as vulnerable and in need of additional support, until they have shown that they are not?

We hope this response is a helpful summary of PCC views and would be happy to discuss the issues raised with you, if helpful.

APCC Secretariat – December 2019