

POLICE AND CRIME COMMISSIONER FOR LEICESTERSHIRE *DECISION RECORD*

To be completed in cases where a decision is required

DECISION OF POLICE AND CRIME COMMISSIONER

Date: 30 September 2019

Officers present: Angela Perry, Paul Hindson

Received in OPCC Date: N/A

OPCC Ref: EXE0015/19

Title: New Complaints Legislation – Policing and Crime Act 2017

Summary of Issue:

In 2014 the Government announced a review of the entire police complaints system, including the local role played by Police and Crime Commissioners. As part of this review the Government identified a need to expand the role of PCCs within the complaints process. The outcome of the review was encompassed within the Policing and Crime Act 2017. The Act provides for Police and Crime Commissioners to have explicit responsibility for holding Chief Constables to account for the way in which complaints are dealt with by the Force and to be the review body for reviews/appeals currently heard by Chief Constables for those complaints dealt with by way of 'local resolution'. Local resolution means dealing with complaints at a local level. The Act provides three different models for Police and Crime Commissioners to expand their role within the complaints system. The models are as follows:-

Model 1

This is the minimum requirement of all PCCs and is mandatory. It will require PCCs to receive appeals (to be known as reviews) from the public, consider whether the Force took proportionate action and then contact the complainant with the outcome. Where the PCC feels that either the complaint was not handled correctly, or the outcome was not appropriate, then recommendations can be made that the Force takes action to rectify this. However the PCC has no power to direct that remedial action takes place as the Chief Constable retains operational control. All complaints will continue to be received, recorded and investigated by the Professional Standards Department. It is believed that PCCs replacing Chief Constable's as an appeal body will make the system more independent and transparent to the public. This option is the least disruptive and least costly based on the assumption that an equivalent appropriate decision maker is appointed by the PCC with expert knowledge. The decision maker would be accommodated within the existing office of Police and Crime Commissioner. This option would provide the cleanest separation of functions to preserve the PCC's 'hold to account' function. The more involved the PCC is with operational complaints handling, the more difficult it is to hold the Force to account for their actions. The PCC will appeal more independent in terms of managing appeals and ensuring that Chief Constable carries out their role in the eyes of the public. However this is the least innovative and radical approach to taking on board the Government's desire for reform of the complaints system. It also means that the PCC will have least oversight and knowledge of the issues the public are complaining

about as the Force will receive the complaints directly. This could however be moderated by increased performance monitoring.

Model 2

This incorporates the elements of Models 1 & 2 and gives the PCC the additional responsibility for keeping the complainant updated throughout and providing the outcome letter. This model would give the PCC a complete oversight of any dissatisfaction being raised allowing a greater focus on key issues and potentially a greater ability to hold the Chief Constable to account. It would provide greater interaction with the public which could potentially increase the PCC's profile. However there would be a significant increase in staffing and accommodation required for recording initial handling decisions, updates and outcome letter away from those managing the reviews. Again the public perception could be the same as in Model 2 in that the PCC would be seen as the same body that receives and records a complaint, keeps the individual updated and then goes on to handle any appeal. This could give rise to the belief that the appeal process was not independent and fair and could be seen by the public as a conflict of interest.

This would give the PCC complete oversight of any dissatisfaction being raised by local people allowing a greater focus on key issues and potentially a greater ability to hold the Chief Constable to account. However this model would require a larger additional cost for the OPCC, including staffing and accommodation. In terms of public perception, the PCC would potentially suffer from the same issue the police currently do by being the same body that receives and records a complaint and then handles any subsequent appeal/review. It would give rise to the perception that the process is not independent or fair. In practical terms, the administration of informally resolving complaints would pose some issues as they tend to be for the lowest level issues which are best handled directly by frontline staff and moreover the quicker they are enacted the better for the complainant and the more likely they are to be resolved.

Adopting this model may lead to the public assuming that the PCC owns the entire system and as such contacting the PCC for updates which could lead to the PCC assuming the work of Model 3 without the resourcing.

Model 3

In addition to the responsibilities in Model 1 and 2 PCC's can opt to take responsibility for all statutory duties regarding contact with the complainant throughout the complaints process. They would in essence become the single point of contact on a complaint.

Where a complaint is recorded the statutory duty for resolving that complaint will rest with the force. This is crucial for maintaining the independence of the appeals process but also the principle of operational independence.

If the complaints system is operating smoothly at the local level, other than taking on responsibility for appeals, the PCC need not change the process if they are confident that they have the oversight of the system they need. In Leicestershire the PCC has an Ethics, Integrity and Complaints Committee who, as part of its work, undertake dip-sampling of complaint files and report in a public forum on their findings. The Committee also receive information and performance data on complaints and misconduct cases. In addition, performance information on complaints is reported to the Commissioner's Strategic Assurance Board and the Commissioner raises any issues relating to this area of business with the Chief Constable at their weekly one to one meetings.

As with Model 2, Model 3 would present some practical difficulties in the OPCC

having to administer an operational process over which it had no control.

It is left for each PCC to decide which model they wish to adopt when the legislation comes into force.

Expected impact

Information on the numbers of complaints made during the previous two financial years is as follows:-

1 April 2018 to 31 March 2019

Over the last year Leicestershire Professional Standards Department recorded approximately 466 number of complaints, approximately 39 per month. When broken down these complaints resulted in 1124 number of allegations. Of these 521 were locally resolved. Of the number locally resolved 42 appeals were received being approximately 3.5 per month.

Whilst the number of complaints and allegations handled by Leicestershire Police has remained fairly static over the last 4 years the introduction of the new legislation could lead to greater confidence in the complaints system which may result in an increase in the number of complaints and consequently the number of appeals.

Resources

As a minimum the PCC will require to have an additional post of an appeals officer within his office to handle and process the appeals and to make recommendations to the Commissioner.

Timescales

Originally the Home Office tentatively suggested that the Act would be enforced by April 2019 however due to parliamentary business this was delayed. The Home Office informed in August 2019 that the intention is now for the regulations to be laid in early December and to come into force early February 2020. The letter received in August also gave notice that this was the start of the 6 months preparation time for delivery.

Recommendation

The Commissioner is recommended to adopt Model 1, being the mandatory model within the Policing and Crime Act 2017, from the date the new legislation comes into force. Adoption of this model will also require additional resource to handle appeals and as such the Commissioner is recommended to approve the post of Appeals & Policy Officer within his office structure.

Key discussion points

The benefits/dis-benefits for each model.

OFFICE OF PCC APPROVAL

Chief Executive or Chief Finance Officer:

I have been consulted about the proposal and confirm that appropriate advice has been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the Police and Crime Commissioner

Signature:



Name:

PAUL HENDERSON

Date:

4 Oct 2019

Publication Scheme

Decision of Monitoring Officer:

As Monitoring Officer for the Office of Police and Crime Commissioner for Leicestershire I have determined that:

It is appropriate to publish this record of decision made by the Police and Crime Commissioner : **Yes**

It is appropriate to publish the contents of the report proposing this course of action prepared by either of the senior post holders in the Office of the Police and Crime Commissioner for Leicestershire (i.e. either the Chief Executive or Chief Finance Officer) : **Yes**

It is appropriate to publish details of the decision by the Police and Crime Commissioner for Leicestershire : **Yes**

Reasons for any non Publication (referencing appropriate legislation): None

Signature:



Name:

ANGELA PERRY

Date:

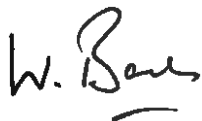
30.9.19

Police and Crime Commissioner for Leicestershire

Having received the advice set out above and reviewed relevant documentation my decision in regard of this matter is:

Approved/~~Not Approved~~

Signature



Date:

4.10.19

Lord Willy Bach
Police and Crime Commissioner