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PROTOCOL FOR DEALING WITH COMPLAINTS AGAINST SENIOR POLICE OFFICERS

Introduction

1. This protocol explains how the Derbyshire Police Authority handles complaints made by, or on behalf of, a member of the public against a senior police officer. The Authority is responsible for handling complaints and allegations of misconduct against senior police officers in the Derbyshire Constabulary. The complaints system is overseen by the Independent Police Complaints Commission (IPCC).

Which Complaints Does the Authority Supervise?

2. The Authority deals with complaints against senior officers – those holding the rank of Chief Constable, Deputy Chief Constable or Assistant Chief Constable.
3. Complaints about senior officers who have retired from police service can also be considered if the subject of the complaint concerns their conduct whilst in service.
4. The Authority does not have responsibility for complaints against Constables, Sergeants, Inspectors, Chief Inspectors, Superintendents or Chief Superintendents. Complaints against these officers are dealt with by the Professional Standards Department in the Constabulary.
5. Complaints relating to the “direction and control” of a police force (such as policing policy, general strategies, and the structure and organisation of the Constabulary) are outside the scope of the complaints system. In addition the Authority cannot intervene in specific police operations.

Who Can Make a Complaint?

6. A complaint can be made to the Authority by a member of the public who:
 - Has been the victim of alleged misconduct;
 - Was present when the alleged misconduct took place or was near enough to see or hear it and has been adversely affected by the alleged misconduct;
 - Is a friend or relative of the victim of the alleged misconduct and has been adversely affected by effects of the incident on the victim, or
 - Has witnessed the alleged misconduct.

7. A complaint can be made by somebody acting on behalf of any of the persons listed above provided they have given their written consent for the representative to act.

What Happens When a Complaint is Made?

8. Decisions about complaints are made by the Professional Standards Committee of the Authority, or by the Clerk or Deputy Clerk of the Authority on the Committee's behalf. When a complaint is received the Authority decides:

- Whether it should be recorded;
- If it should be referred to the IPCC;
- Whether local resolution should be attempted or
- If an application for a dispensation should be made.

Recording a Complaint

9. When the Authority receives a complaint about a senior officer in the Constabulary, it must decide whether to make an official record of the complaint. The complainant will be told whether or not the complaint has been recorded. If a complaint is not recorded, the Authority will inform the complainant of the reasons for this decision. The complainant has a right of appeal to the IPCC in writing and within 28 days of being told of the decision not to record the complaint.

Reference to the IPCC

10. The Authority must refer a complaint to the IPCC where it is alleged that the misconduct resulted in death or serious injury or involves a serious assault, serious sexual offences, serious corruption, or criminal or other behaviour aggravated by discrimination. The Authority has the option to refer other complaints to the IPCC in exceptional circumstances. If a complaint is referred to the IPCC, they can decide to investigate it themselves, or manage or supervise the investigation carried out by an investigating officer appointed by the Authority.

Local Resolution

11. In less serious complaints, the Authority may offer the complainant the option of a procedure aimed at resolving a complaint quickly and satisfactorily at local level. This process is known as local resolution. The complainant has to agree that local resolution should be pursued.

12. The procedure to be followed in a local resolution will be agreed with the complainant in advance. Usually the Clerk or another person will act as facilitator. As part of the procedure, the complainant will explain their concerns to the police who will then aim to provide a satisfactory and adequate response to these concerns.

13. A complainant can appeal to the IPCC about the conduct of a local resolution procedure. There is no appeal about the outcome.

Dispensation

14. In certain circumstances, the Authority can apply to the IPCC for permission to handle the complaint outside of the normal procedure – this could include taking no further action in respect of a matter. This is known as a “dispensation”. For example, a dispensation can be sought where there has been undue delay in

bringing a complaint, if the complainant is anonymous or where the complaint is malicious or unfair.

How is an Investigation Handled?

15. If a complaint has been recorded and the Authority or IPCC decide that it, and the officer concerned, should be investigated, the complainant will be kept informed as the investigation progresses.

16. The law lays out criteria for the selection of an investigating officer including that he or she must serve with the police and be of the same or a higher rank as the senior officer concerned.

17. On receipt of the final investigation report, either the Authority or IPCC, as appropriate, will decide what action is to be taken in respect of a report, including whether the matter should be referred to a hearing or disciplinary proceedings.

18. A complainant will be provided with copies of interim and final investigation reports unless to do so would prejudice criminal proceedings or national security, is not in the public interest or would have a disproportionate adverse effect.

19. Where the Authority has conducted an investigation on its own behalf or under the supervision of the IPCC, the complainant has a right of appeal against:

- The findings of the report;
- The amount of information that he or she has been provided with about the report; or
- The action the Authority intends to take in respect of it.

20. The appeal is decided by the IPCC.

21. When an investigation has taken place, the Authority will consider the report of the Investigating Officer and decide whether the matter should be referred to a disciplinary hearing to determine whether the senior officer is guilty of misconduct. If an officer is guilty of misconduct, a number of sanctions can be imposed by the Authority including that the officer is dismissed or is required to resign from the force, or receives a fine or reprimand.

How Long Does It Take?

22. The Authority will decide whether or not to record a complaint within approximately 10 days of receiving one.

23. The Authority will decide whether to refer a complaint to the IPCC, to propose local resolution, to apply for dispensation or to investigate the matter within a month of the decision to record a complaint. If a complaint is investigated, it may take up to 3 months to complete the investigation, longer in complex or very serious cases.