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DYFED-POWYS
POLICE AND CRIME
COMMISSIONER

Report from the

Police and Crime Commissioner for Dyfed-Powys

To the

Dyfed-Powys Police and Crime Panel

Complaints against the Police and Crime Commissioner (PCC)

October 2019

New Complaints and Conduct Legislation

Background:

Police and Crime Commissioners (PCCs) act as the voice of the public on policing and crime matters. They are responsible for setting the strategic direction for policing within their respective force areas.

They will shortly (anticipated January/February 2020) be involved in the implementation of new complaints and conduct legislation arising from police integrity reforms 2019. A key element of the reforms will be to carry out independent reviews of police complaints where the Commissioner has been assessed as the relevant appeal body and the complainant formally requests a review in respect of the Force's handling of their complaint.
The Police and Crime Commissioner will be responsible for considering the application of police complaints processes and procedures in individual cases and thereafter decide on the outcome of the review.

The Police and Crime Commissioners for Dyfed Powys, Gwent and North Wales are seeking to appoint an independent service provider to conduct independent reviews on their behalf. This will be for a period of 12 months with the option of extending it for a further period of 12 months.

PCC Complaint Considerations:

The change in legislation, whereby the Police and Crime Commissioner will be responsible for the outcome of the review in respect of the Force's handling of a complaint, may prompt an increase in complaints made against the PCC in respect of the decisions made.

However, it should be noted that this legislation forms part of a complaint process i.e. the outcome of any complaint investigation conducted by the Professional Standards Department (PSD) provides a right of appeal and this is set out in their communications. Should the appeal routes be exhausted, the final option is Judicial Review. Therefore, if an individual is dissatisfied with the outcome of the PCC decision in respect of their review, their next and final option is Judicial Review. This is also the case when a review is undertaken by the Independent Office for Police Conduct (IOPC). At the conclusion of their decision, they provide the following comments:

"You are not able to appeal my decision. However, if you have any questions or need more information about my decision please contact me. My details are at the end of this letter."

Submitting a complaint against the PCC in respect of a final decision concerning a complaint does not form part of the complaint dissatisfaction process and individuals should be advised accordingly, as set out above.

Community Trigger Process (Section 104, ASB Crime & Police Act 2014)

Background:

If an individual has reported a problem to the council police or housing provider and feel that not enough action has been taken to respond, a Community Trigger is a way for an

individual to request a case review. In order to meet the threshold to activate a Community Trigger, there must have been:

- 3 complaints of Anti-Social Behaviour (ASB) from same person of ASB within 6 months
- 5 complaints from different individuals about same location, person or problem within 6 months
- 1 Hate Incident / Crime within 6 months

The Anti-Social Behaviour, Crime and Policing Act 2014, Section 104, Subsection (11) defines a "qualifying complaint" as one which is made within one month of the incident occurring and provides that the application for the case review should be made within six months of the original complaint. The community trigger is intended as a backstop safety net for the victims of anti-social behaviour who consider that there has not been an appropriate response to their complaints about such behaviour.

More recently, the Association of Police and Crime Commissioners (APCC) have contacted all OPCC's stating that *"Anti-Social behaviour continues to be a significant problem in England and Wales and is one that is growing. The most recent Crime Survey of England and Wales reported that 38% of adults have experienced or witnessed anti-social behaviour in the year to 31 March 2019, compared to 33% in the previous year. For some time, there has been concern from key NGOs that the Community Trigger has been generally ineffective, largely because it is unknown and inaccessible to victims. This concern was reinforced in a report from the Victims Commissioner earlier this year titled 'Anti-Social Behaviour, Living a Nightmare.'"*

They have considered how the community trigger process can be improved and recently, our office has made the following considerations in respect of the appeal function.

- There is an agreement in place between Dyfed Powys Police and the Commissioner's Office, whereby any individual who is dissatisfied with the outcome of their case review can request the OPCC to consider their dissatisfaction with the way the Relevant Bodies a) dealt with the application or b) carried out the review. As part of carrying out any appeals, the OPCC will have the opportunity to review the process undertaken by the relevant bodies and in addition, both the Force and the OPCC will publish Community Trigger statistics on their website annually (January). The OPCC will encourage a Community Trigger protocol locally between all relevant bodies and the PCC will agree what is published by whom and when, in order to encourage local authorities to publicise their own data – it is planned that this will be progressed through the Anti-Social Behaviour Steering Group.

- The Commissioner has also recently endorsed a recommendation for the appointment of a Community Trigger Officer or Ombudsman by the Home Office, as this will retain public trust that we are proactively publishing services available to the public, correctly applying the review process and allowing the opportunity for an appeal of any decision made. This forms part of the Commissioner's Priorities i.e. Priority 1: Keeping our communities safe and Priority 2: Safeguarding the vulnerable. The central oversight of this part of policing by the Home Office would provide reassurance to the public that Dyfed Powys Police are fulfilling our priorities, complying with the relevant legislation and ultimately assisting victims of anti-social behaviour and placing them at the centre of the situation.

PCC Complaint Considerations:

The appeal process for Community Triggers will essentially be a desktop review and will not

involve hearings or meetings with the victims. The role of the PCC will be to consider due process and ensure that Dyfed Powys Anti-Social Behaviour Group has properly and effectively undertaken a review. In considering a community trigger escalation, the PCC can either:

1. Uphold the appeal and refer the case back to the Dyfed Powys Anti-Social Behaviour Group asking them to consider a particular process, policy or protocol not previously considered;
2. Determine that the Dyfed Powys Anti-Social Behaviour Group has reviewed the case, considering all relevant policies, process and protocols satisfactory in line with its Community Trigger Procedure.

There is no further escalation of an appeal at this point for the individual, the PCC's decision is final. However, as previously stated, the PCC has endorsed a recommendation for the appointment of a Community Trigger Officer or Ombudsman by the Home Office, who would then have oversight of the process undertaken by both the force and the OPCC.

Submitting a complaint against the PCC in respect of a final decision concerning a community trigger outcome does not form part of the dissatisfaction process and individuals should be advised accordingly, as set out above.