

NORTHAMPTONSHIRE POLICE, FIRE AND CRIME PANEL

COMPLAINTS SUB COMMITTEE

8 SEPTEMBER 2023

Report Title	Consideration of a complaint (reference 01/2023) concerning the conduct of the Police, Fire and Crime Commissioner for Northamptonshire
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Contributors/Checkers/Approvers		
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List of Appendices

Appendix A – Complaint 01/2023 against the Police, Fire and Crime Commissioner

Appendix B – IOPC decision letter on referral of Complaint 01/2023

Appendix C – Comments on Complaint 01/2023 from the subject of the complaint

1. Purpose of Report

- 1.1. The report is intended to enable the Northamptonshire Police, Fire and Crime Panel’s Complaints Sub Committee to consider a non-criminal complaint about the conduct of the Police, Fire and Crime Commissioner for Northamptonshire in accordance with the Informal Resolution Protocol agreed by the Panel.

2. Executive Summary

- 2.1. The Complaints Sub Committee has been established by the Northamptonshire Police, Fire and Crime Panel to carry out specific functions relating to the consideration and resolution of non-criminal complaints about the conduct of the Police, Fire and Crime Commissioner for Northamptonshire. This report sets out details of a complaint made to the Panel by a member of the public (Complaint 01/2023) and comments responding to the complaint that have been received from the Police, Fire and Crime Commissioner. The Complaints Sub Committee is required to consider this information and to determine what action it will take on the complaint,

within the parameters set by relevant statutory requirements and the local arrangements adopted by the Panel for this purpose.

3. Recommendations

- 3.1 It is recommended the Complaints Sub Committee considers and agrees whether Complaint 01/2023 should be treated as having already been satisfactorily resolved, as set out in paragraphs 6.2 – 6.3 of the report.
- 3.2 In the event that the Complaints Sub Committee agrees that Complaint 01/2023 should not be treated as having already been satisfactorily resolved, it is further recommended that the Complaints Sub Committee considers and agrees whether Complaint 01/2023 should be subject to Informal Resolution, as set out in paragraphs 6.4 – 6.5 of the report.
- 3.3 In the event that the Complaints Sub Committee agrees that Complaint 01/2023 should be subject to Informal Resolution, it is further recommended that the Complaints Sub Committee:
 - a) Considers and agrees actions to be taken in response to Complaint 01/2023 in accordance with the Informal Resolution Protocol.
 - b) Considers and agrees arrangements to determine that Complaint 01/2023 has been resolved following the completion of agreed actions.
- 3.4 Reasons for Recommendation(s) – The recommendations are intended to enable the Complaints Sub Committee to consider Complaint 01/2023 in a systematic way that reflects statutory requirements relating to the consideration of complaints about the Police, Fire and Crime Commissioner for Northamptonshire and the arrangements that the Northamptonshire Police, Fire and Crime Panel has adopted to carry out this function.

4. Report Background

- 4.1 The Police Reform and Social Responsibility Act 2011 and the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 require Police (Fire) and Crime Panels to adopt a process for carrying out “Informal Resolution” of non-criminal complaints about the conduct of the Police, Fire and Crime Commissioner (PFCC) and – if appointed – the Deputy Police, Fire and Crime Commissioner (DPFCC). For reference, complaints that involve, or that appear to involve, a criminal offence are dealt with by the Independent Office for Police Conduct (IOPC).
- 4.2 Informal Resolution is intended to represent a locally-agreed process for resolving a complaint as far as possible by mediation between the complainant and the subject of the complaint. It is not an investigation of the complaint: a Panel is prohibited from taking any action intended to gather information about a complaint other than inviting comments from the complainant and the subject of the complaint.
- 4.3 The Northamptonshire Police, Fire and Crime Panel (the Panel) has an agreed Informal Resolution Protocol, which was adopted soon after the establishment of the Panel and which has been

reviewed and updated as necessary since. The current Protocol is included with the agenda front sheet for this meeting.

4.4 The Panel also operates a Complaints Sub Committee to which it delegates the following powers and duties:

- a) Where a complaint or conduct matter comes to the Sub Committee's attention it must secure that all appropriate steps are taken, both initially and from time to time after that, for obtaining and preserving evidence relating to the conduct in question and to comply with any directions given by the IOPC in this regard.
- b) To provide the IOPC and every member of its staff with such assistance as it may reasonably require in connection with the carrying out of any investigation by the IOPC or by anyone appointed to carry out an investigation on its behalf.
- c) To determine whether a complaint that has been recorded should be subject to Informal Resolution or should be excluded from Informal Resolution on grounds identified in the 2012 Regulations, and in that case, to determine how to handle the matter or whether to take no action in relation to it.
- d) To deal with the Informal Resolution of complaints in accordance with the requirements of the 2012 Regulations.

4.5 The Complaints Sub Committee consists of 4 councillor members of the Police, Fire and Crime Panel (3 councillor members from the Conservative councillors on the Panel and 1 councillor member from the Labour councillors on the Panel) and 1 independent co-opted member drawn from the pool of all of the independent co-opted members on the Panel. The Sub Committee members in 2023/24 are:

- Councillor Fiona Baker
- Councillor Dorothy Maxwell
- Councillor Ken Pritchard
- Councillor Winston Strachan
- Mrs Anita Shields / Miss Pauline Woodhouse

5. Complaint 01/2023

5.1 The Chair of the Panel received a complaint about the conduct of the PFCC on 27 July 2023. The complaint was then brought to the attention of the Monitoring Officer of West Northamptonshire Council, who has delegated responsibility from the Police, Fire and Crime Panel for formally receiving and recording all complaints about the conduct of the PFCC. Following consideration of the complaint the Monitoring Officer formally recorded it on 1 August 2023 and determined that it should be referred to the IOPC as a complaint about conduct that

constitutes or involves, or appears to constitute or involve, the commission of a criminal offence. The complainant and the subject of the complaint were advised of this referral.

- 5.2 Details of the complaint (referred to as Complaint 01/2023) are included with this report at Appendix A. A summary of the complaint is as follows:

The proposed appointment of Nicci Marzec as interim Chief Fire Officer of Northamptonshire involved a failure by the Police, Fire and Crime Commissioner to declare a disclosable pecuniary interest when making a decision and that appears to represent a criminal offence under the Localism Act 2011 and may also represent a criminal offence of misconduct in public office.

- 5.3 The IOPC assessed Complaint 01/2023 and determined that it did not need to investigate it further because it concluded the information provided did not indicate conduct by the PFCC that constituted or involved, or appeared to constitute or involve, the commission of a criminal offence at this time. A copy of the IOPC's letter setting out its conclusions sent to the Monitoring Officer on 10 August 2023 is included with this report at Appendix B.
- 5.4 The legislation relating to complaints about the conduct of the PFCC referred to in paragraph 4.1 above requires that when the IOPC determines not to investigate a complaint and refers it back to the relevant panel the complaint should then be subject to informal resolution. Complaint 01/2023 was therefore referred to the Panel Secretariat to convene a meeting of the Complaints Sub Committee to consider the complaint in accordance with the Informal Resolution Protocol. The Panel Secretariat has written to the complainant and to the subject of the complaint in advance of this Sub Committee meeting providing details about Informal Resolution. The subject of the complaint was given the opportunity to make comments in response to the complaint. The complainant was given the opportunity to make further comments in support of their original complaint should they wish to do so. Comments received from the subject of the complaint are included with this report at Appendix C. No further comments have been received from the complainant.
- 5.5 It is usual practice for the Complaints Sub Committee to meet in private session when it considers a complaint about the conduct of the PFCC. However, the issues that have given rise to this complaint have already been discussed in public and the facts of the complaint have been well publicised. The Monitoring Officer has therefore determined that it does not appear to be in the public interest for the Complaints Sub Committee to consider this complaint in private session. This reflects the nature of the current complaint and is not intended to set a precedent for the future.

6. Issues and Choices

- 6.1 The Complaints Sub Committee must use the current meeting to consider Complaint 01/2023. The Sub Committee should consider the following questions, taking into account the information relating to the complaint that has been provided to it and recognising that the Sub Committee's remit concerns complaints about the conduct of the PFCC.

Whether Complaint 01/2023 has already been resolved

- 6.2 The Complaints Sub Committee should first consider whether Complaint 01/2023 has already been satisfactorily dealt with by the time of the current meeting. If it appears to the Sub Committee that action has been taken that means the complaint has already been satisfactorily dealt with it may decide to treat the complaint as having been resolved. If this is the case the Sub Committee's reasons for reaching this conclusion will be recorded and notified to the complainant and the subject of the complaint.
- 6.3 In accordance with the Informal Resolution Protocol the complainant has been given the opportunity to make representations with regard to this question. No representations have been received from the complainant.

Whether the Informal Resolution process should apply to Complaint 01/2023

- 6.4 If the Complaints Sub Committee concludes that Complaint 01/2023 has not already been resolved it is then required to determine whether it should be subject to Informal Resolution or should be excluded from this process on grounds identified in legislation. The grounds for excluding a complaint from Informal Resolution are as follows:
- a) The complaint is concerned entirely with the conduct of the PFCC or DPFCC in relation to a member of their staff at the time when the conduct is supposed to have taken place.
 - b) More than 12 months have elapsed between the incident giving rise to the complaint and the making of the complaint, and either no good reason for the delay has been shown or injustice would be likely to be caused by the delay.
 - c) The matter is already the subject of a complaint.
 - d) The complaint discloses neither the name and address of the complainant nor that of any other interested person and it is not reasonably practicable to ascertain such a name or address.
 - e) The complaint is repetitious, or is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints.
- 6.5 If the Sub Committee considers that a complaint should be excluded from Informal Resolution it must then determine how to deal with the matter, which may include determining to take no action in relation to it. If the Sub Committee determines to deal with a complaint other than by Informal Resolution, or to take no action in relation to it, the complainant shall be notified of this.

Informal Resolution of Complaint 01/2023

- 6.6 If the Complaints Sub Committee determines that Complaint 01/2023 should be subject to Informal Resolution it should then consider what action it may take to assist in clarifying or resolving the issues raised in the complaint. The Sub Committee's freedom to act is governed by the legislation. In particular, it should note that:

- a) The Sub Committee may not conduct an investigation of the matter. It may use powers delegated to it to require the person complained against to provide information or documents or attend before it to answer questions or give evidence, as this will not be regarded as an investigation. However, any step intended to gather information about the complaint, other than inviting the comments of the complainant and the person complained against, will be likely to amount to investigation and should not therefore be undertaken.
- b) The Sub Committee does not have the power to overturn a decision by the person complained against, to censure them, to require them to make an apology or to issue an apology on their behalf.

6.7 In accordance with the Informal Resolution Protocol agreed by the Panel the type of action that the Sub Committee may consider taking includes:

- Agreeing that further information or an explanation of a situation be provided to the complainant by the Panel Secretariat (or on behalf of the Sub Committee);
- Recommending that further information or an explanation of a situation be provided to the complainant by a member of staff from the Office of the Police, Fire and Crime Commissioner (OPFCC);
- Recommending a change to OPFCC policy, practice or action;
- Requesting that the person complained against offers an apology to the complainant (no apology may be tendered on behalf of the person complained against unless that person has admitted the alleged conduct and agreed to the apology).

6.8 The Sub Committee should consider the timeframe within which any actions identified through Informal Resolution are to be completed. It should also consider arrangements to determine that the matter has been resolved following the completion of these actions. The Informal Resolution Protocol specifies that once recommended actions have been completed the matter may be referred back to the Sub Committee to determine that it has been resolved. Alternatively, the Sub Committee may authorise an individual (for example, the Sub Committee Chair) to determine this on its behalf. The Panel Secretariat must make a record of the outcome of Informal Resolution and provide copies to the complainant and the subject of the complaint. The matter will then be closed.

Requesting further information on Complaint 01/2023

6.9 Paragraph 6.6(a) of this report notes that the Complaints Sub Committee may require the person complained against to provide information to it, or to attend before it to answer questions, when the Sub Committee reasonably considers that this is necessary for it to carry out its functions.

6.10 Individual Sub Committee members are asked to consider the information about Complaint 01/2023 provided with this report and then to advise the Panel Secretariat as quickly as possible before the Sub Committee meeting on 8 September 2023 if they think that they need further information in order to complete consideration of the complaint at the meeting. The Panel Secretariat will aim to request this information from the OPFCC with a view to it being provided

to the Sub Committee for the meeting on 8 September 2023. This approach is intended to assist the Sub Committee to complete consideration of the complaint promptly at a single meeting as far as possible, rather than needing to convene a second meeting to consider additional information that may be requested on 8 September 2023.

7. Implications (including financial implications)

7.1 Resources and Financial

7.1.1 There are no specific resource or financial implications arising from the proposal. The Complaints Sub Committee operates within the overall resources available to support the Police, Fire and Crime Panel.

7.2 Legal

7.2.1 There are no specific legal implications arising from the proposal. The consideration and resolution of complaints about the conduct of the Police, Fire and Crime Commissioner is a statutory function of the Police, Fire and Crime Panel and is carried out according to set arrangements that meet the applicable requirements.

7.3 Risk

7.3.1 It is important that the Complaints Sub Committee deals with non-criminal complaints in accordance with statutory requirements and the local arrangements that the Panel has adopted for this purpose. The parameters applying to the Informal Resolution process and to the types of action that can result from it are set out in paragraphs 6.6 – 6.7 above. The Sub Committee should ensure that it has sufficient regard to these factors when considering Complaint 01/2023 so as not to risk producing an outcome that is open to challenge. The information presented in this report and advice that may be given to the Sub Committee at the meeting as necessary is intended to assist in mitigating this risk.

8. Background Papers

Police Reform and Social Responsibility Act 2011

The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012

Police and Crime Panel Regulations: Non-Criminal Complaints and Misconduct – Home Office Guidance

Northamptonshire Police, Fire and Crime Panel Rules of Procedure