



# Complaints & Misconduct Policy & Guidance



## Complaints & Misconduct Policy and Guidance

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## Section 1 – Complaints and Misconduct Policy

- 1.1 The Policy of the Gloucestershire Constabulary is to abide by the statutory duty required under the Police Reform Act 2002 to record and deal appropriately with complaints made by the public.
- 1.2 The Policy of the Gloucestershire Constabulary is to investigate all complaints or allegations of Misconduct. Investigations will meet statutory obligations, be thorough, impartial and will consider the needs of the public and staff (and the communities both external and internal to the organisation that these form). The investigations will follow the requirements of the Police (Complaints and Misconduct) Regulations 2012, The Police (Conduct) Regulations 2012, and the guidance provided in the IPCC Statutory Guidance to the police service on the handling of complaints 2015, and The Home Office Guidance; Police Officer Misconduct, Unsatisfactory Performance and Attendance Management Procedures 2015.
- 1.3 The rights of individuals will be upheld. Necessity for change and learning will be identified and implemented. These things together will allow us to improve the quality of service and build trust within our communities, with the aim of reducing the number of complaints and allegations, maintaining individual and team integrity.

## Section 2 – Complaints Guidance

- 2.1 A complaint is an expression of dissatisfaction by a member of public about the conduct of a person serving with the police. A complaint does not need to be communicated in writing nor does it need to say explicitly it is a complaint. It can simply be a statement of dissatisfaction. (The definition of a 'complaint' now includes direction and control matters).
- 2.2 Service recovery is the process whereby complaints are dealt with there and then by way of an explanation of how the police responded and why, to the satisfaction of the complainant. If successful this provides a better service and increases customer satisfaction. In these cases there is no requirement to formally record the complaint in line with the Police Reform Act 2002. However a record of the service recovery should be retained as best practice to provide an audit if required at a later date.
- 2.3 Where a complaint cannot be resolved by service recovery, it should be recorded as a complaint on form K2 and passed to PSD for assessment.



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K2 2012 amended  
10.2014.docx

- 2.4 Complaints assessed by the Appropriate Authority (AA) will be recorded in accordance with the Police Reform Act, 2002 and will be dealt with by Local Resolution or (where they meet a certain threshold) by Local Investigation. In certain circumstances the IPCC will deal with an investigation in the mode of; supervise, manage or independent.
- 2.5 Complaints will be recorded on the 'Centurion' database to ensure an auditable record of the complaint and how it is resolved.
- 2.6 The AA will identify where complaints meet certain criteria for referral to the Independent Police Complaints Commission (IPCC).
- 2.7 Where the AA has passed a complaint to an supervisory officer to be Locally Resolved the following guidance will assist the appointed officer dealing with the complaint:



GUIDANCE ON  
LOCAL RESOLUTION

- 2.8 Please follow the guidance carefully, and if you have any concerns or queries make contact with PSD for advice. The AA will quality assure the Local Resolution and if it appears that an action plan has not been agreed, and the complaint not adequately addressed, then it will be returned for further work. The reason for this is that the complainant has a right of appeal, and it does not reflect well on service delivery if the appeal shows that the complaint was not effectively dealt with.
- 2.9 Complaints will be dealt drawing on good practice in complaints handling (in particular, the parliamentary and Health Ombudsman's *Principles of Good Complaints Handling*). These are:
- Getting it right
  - Being customer focused
  - Being open and accountable
  - Acting fairly and proportionately
  - Putting things right
  - Seeking continuous improvement
- 2.10 At the conclusion of a Local Resolution, the AA will ensure the complainant is informed in writing of the outcome (and sent a copy of the record of the outcome), and of the right of appeal.
- 2.11 The purpose of an investigation is to establish the facts behind a complaint, (conduct matter or Death & Serious Injury (DSI) matter) and reach conclusions. An investigation should be fair, reasonable and objective and based on evidence.
- 2.12 The AA is responsible for appointing an Investigating Officer (IO), where a matter is dealt with through local investigation. IOs should adopt a proportionate approach to any investigation in



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order to ensure that, in the public interest, investigative resources are focused and employed efficiently and fairly.

- 2.13 The IO will produce an investigation report which provides an accurate summary of the evidence will attach or refer to any relevant documents; and indicate in the IOs opinion as to whether there is a case to answer for misconduct/gross misconduct or if a complaint is upheld or not upheld.
- 2.14 The AA (in a local or supervised investigation) or the IPCC (in a managed or independent investigation) will make a determination following the IOs report. Based on these findings the outcomes could be: no further action, management action, dealt with underperformance regulations or, dealt with under Misconduct proceedings where a misconduct meeting or a misconduct hearing may take place.
- 2.15 Many investigations will reveal learning outcomes for local and/or national policing. It may be appropriate to consider drafting a separate 'learning report' to facilitate wider dissemination and learnings.

## Section 3 – Misconduct Guidance

- 3.1 A conduct matter is any matter about which there is not, or has not been a complaint, where there is an indication that a person serving with the police may have committed a criminal offence or behaved in a manner which would justify disciplinary proceedings.
- 3.2 Misconduct in respect of Police Officers or staff is any behaviour that falls below the standard expected. The standard expected is that set out in the Standards of Professional Behaviour for Police Officers (Schedule 2 Police (Conduct) Regulations 2012), incorporated into the Code of Ethics. In respect of Police Staff, individuals are expected to maintain professional standards; these standards are set out in the Standards of Professional Behaviour for Police Staff (again incorporated into the Code of Ethics). The standards are also listed in the Home Office Guidance; Police Officer Misconduct, Unsatisfactory Performance and Attendance Management Procedures, pages 12 and 13.



Code\_of\_Ethics.pdf

- 3.3 The Professional Standards Department (PSD) has a central role in ensuring that the Constabulary provides a quality service both to the public and its staff. Although the focus of any investigation will be on the conduct of individuals, any opportunity to improve service by identifying individual or organisational learning will be taken.
- 3.4 The Anti-Corruption Unit within PSD are responsible for promoting a greater willingness and opportunity for those within the Constabulary to voice their concerns regarding the conduct of colleagues.
- 3.5 XXX
- 3.6 XXX



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- 3.7 Any misconduct investigation conducted by PSD will follow the same principles as outlined above in 2.10 to 2.15.
- 3.8 Where it is brought to the attention of colleagues that an officer's conduct has breached the standards of professional behaviour (or it is alleged), the matter should be referred to an officer of at least a rank above the officer concerned. The supervisory officer (rank above) should consider if they are able to deal with the matter themselves, or whether it should be referred to PSD for a conduct assessment to be made (if considered that it may lead to misconduct proceedings, such as a meeting or a hearing).
- 3.9 If the supervising officer (above) considers that they can deal with the matter themselves, then they should do this. Consideration should be given to policies and procedures and all the information available, however this should be subject to proportionality. The officer concerned should be given the opportunity of providing a response to the allegation. There is no requirement to serve forms as this process would be dealing with the matter by way of management action which will not result in a formal misconduct outcome. The aim here is about learning and personal development, and should be deemed a standard management process, rather than an in-depth investigative procedure. The outcome if proven (balance of probabilities) could range from words of advice to a formal action plan. It is good practice to evidence the occurrence on the officer's PDR so that an auditable record is made.
- 3.10 If the supervising officer (above) is not the officer concerned usual line manager, then they must inform that officer's line manager of the occurrence (by email is best for audit). This is necessary to identify and address a pattern of poor performance or behaviour.
- 3.11 Where it is obvious that the allegation is more serious, or involves a criminal allegation it must be referred to PSD for a formal misconduct assessment to be made.
- 3.12 Nothing should prevent the supervising officer taking immediate steps to retain evidence if that evidence would otherwise be lost. For example CCTV, witness accounts, etc. The referral to PSD should be in the form of either an email outlining the facts, or a report. The Departmental Head should be cc'd into such a report.
- 3.13 The following provides procedural guidance to line managers:



## GUIDANCE ON DEALING WITH MISC:

- 3.14 It should be noted that a police officer or staff may be requested to provide their consent to the IO to access and use any information (including criminal interviews and evidence) obtained during the course of the criminal proceedings for the purpose of misconduct (discipline) proceedings. If the police officer or staff refuse their consent in appropriate circumstances the IO may access and obtain the information from the criminal proceedings if it is considered in the public interest.
- 3.15 The outcome of any misconduct investigation sometimes results in sanctions, but whenever possible every opportunity will be taken to ensure that there are positive benefits for the public, individuals and the police service.



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- 3.16 The College of Policing issued 'Guidance on outcomes in police misconduct proceedings' in June 2017. This outlines a framework for assessing the seriousness of conduct, including factors which may be taken into account.



C62110617\_Guidance on outcomes in polic

## Section 4 – Procedural guidance and legislation

- 2.16 The procedures for the handling and investigation of complaints from members of the public and other misconduct matters are contained within the Home Office Guidance on Police Unsatisfactory Performance, Complaints and Misconduct Procedures, Independent Police Complaints Commission Statutory Guidance 2015, the Police Reform Act 2002 and Police (Conduct) Regulations 2012 and Police (Complaints and Misconduct) Regulations 2012.



Home Office



IPCC



Police Reform Act



Police\_(Conduct)\_Re



Guidance 2015 as am 2015\_statutory\_guid.2002 as amended 4-4gulations\_2012\_(SI\_2and Misconduct) Regi

## Section 5 – Other roles of PSD

- 2.17 To Provide Consultancy to the Constabulary in relation to misconduct matters and civil claims.
- 2.18 Expert advice is often needed in relation to complaints made by the public, misconduct issues and civil claims.
- 2.19 The Professional Standards Department investigates these issues relating to both Police Officers and Police Staff. It has a level of expertise that can be called upon by other departments of the Constabulary and will therefore undertake a consultancy role, if not formally involved. This will ensure appropriate responses and consistency across the Constabulary.
- 2.20 To provide meaningful feedback to the Constabulary in relation to complaints against the police
- 2.21 The work of the Professional Standards Department will provide a major benefit to the Constabulary by identifying where there is the need for development of both individuals and the organisation. This will assist the Constabulary in providing the best possible service to the public.
- 2.22 This will be achieved by the provision of Management Information, involvement in training and by providing direct feedback to individuals and management.

## Section 6 – Identification, Monitoring & Review

The Policy should enable consistent and effective decision making. Where operational or managerial circumstances require any decision making that would adversely affect adherence to the policy or procedure,



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in line with the 'Statement of Intent' of the constabulary and the police service 'Code of Ethics', if an officer/ police staff member believes that they need to make a decision that steps outside of policy and procedure they should do so, provided that:

- the officer/ police staff member raises the matter at the earliest opportunity (and ideally before any such decision is made) with their line manager declaring their intended (or actual) course of action if notification is made after the decision is taken,
- produces, in a timely manner, a signed and dated written explanation of why it is/ was deemed necessary to step outside of policy and procedure, and
- maintain an adequate record of this written rationale for audit purposes appropriate to the circumstances/ contravention

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Previous policies can be found with the continuous improvement team.