



Home Office

BUILDING A SAFE, JUST
AND TOLERANT SOCIETY

Brief Guide for First and Second Line Supervisors and Managers on Receiving and Handling Complaints

CENTREX
DEVELOPING POLICING EXCELLENCE

The following is part of the Reference Guide being produced by Centrex and is Home Office Suggested Practice. This is not statutory Guidance but is advice produced by staff at the HO for the purpose of informing training and early operation of the system. Statutory Guidance will be produced by the IPCC on the back of early operational experience and feedback from stakeholders.

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Introduction

1. This guide is intended for those outside the 'Professional Standards Department' (PSD)¹ who may have a role in handling complaints under the Police Reform Act 2002 (the Act), eg **First and Second Line Supervisors**. It is not intended to replace the main Reference Guide's advice but attempts to distil the key 'need to know' facts.
2. It covers receiving a complaint about the conduct of a member of the police service and initial decision making about:
 - Determining whether the complaint falls within the Act;
 - Whether to attempt local resolution or refer to your Professional Standards Department;
 - Preserving evidence.

How might I receive a complaint?

3. A complaint can be received in a number of ways; these could include:
 - In person from a member of the public – in person, via a telephone call, a letter (email, website if applicable according to force practice);
 - A complaint passed to you from PSD (which may have been passed to them from the IPCC or a gateway organisation²).

¹ PSD is used throughout this document but forces may of course have local arrangements for who manages complaints, ie the MPS has a separate system outside of PSD for recording complaints against police staff.

² Organisations such as the CAB who can pass complaints to the force on behalf of complainants.

Who can a complaint be made about?

4. Complaints can be made against:

- Police Officers of all ranks;
- Police Staff of all grades who are employed by the Police Authority and under the Direction and Control of the Chief Constable. E.g. Police Community Support Officers, Communications Staff, Front Office Staff, Admin Staff, etc;
- Special Constables;
- Contracted out escort and detention officers designated under S39 of the Act.

Who can't be complained against?

5. Complaints cannot be made against any staff not both employed by the police authority and under the direction and control of the chief officer:

- Contractors, other than those mentioned above
- Police Doctors not employed by the Force
- Neighbourhood wardens
- Public Finance Initiative staff.

(Complaints about staff who fall outside of the PRA should be dealt with in accordance with force policy.)

Who can make a complaint?

6. A complainant can be:

- The person against whom the alleged conduct occurred;
- A person acting on the above person's behalf with written consent – friend, relative, solicitor, MP, etc;
- A person who has personally witnessed the incident (and would provide admissible evidence. This excludes someone who perhaps has seen an incident on the television);
- A person who has been adversely affected by the conduct, e.g. relative in a death in custody type case; and
- A member of a different force who was off duty at the time of the alleged conduct.

(NB Adversely affected – suffered any form of loss or damage, distress or inconvenience, put in danger or unduly put at risk of being adversely affected.)

Who can't make a complaint?

7. People who can't make a complaint include:

- A member of any force who was on duty at the time of the alleged incident;
- Someone who was under the direction and control of the same chief officer as the person against whom the allegation is made.

What is a complaint under the Act?

8. A complaint about the **conduct** of an individual or group of individuals. This will include allegations of a criminal offence e.g. theft, assault, unlawful arrest/detention, perjury or a failure in standards e.g. rudeness, neglect of duty, abuse of authority etc. (All criminal allegations are allegations of a failure in standards but not vice versa.) These matters must be formally recorded in accordance with the Police Reform Act and can only be concluded by,

- Withdrawal of allegation
- Local Resolution
- Dispensation/ Discontinuance
- Formal investigation.

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What is not a complaint under the Act?

9. A complaint where there is no issue of individual conduct of a member of the police service (as defined above) but is **wholly** about force policy, management, operational tactics, deployment of resources, quality of service, etc.

Examples may include;

- A crime is screened out in accordance with force policy and all action required to achieve that decision has been completed;
- The location of traffic enforcement cameras;
- Compliance with legislation e.g. not returning property where there is a dispute as to ownership;
- Compliance with prosecution guidelines;
- Not complying with the force charter mark standards, answering phones, sending letters;
- Delay in sending a resource to an incident;
- Insufficient patrolling of a particular area.

(These complaints should be handled in accordance with force policy in line with the guidance on direction and control complaints currently being drafted by APA, ACPO and HMIC.)

11. It is important that you conduct initial enquiries into these cases to ensure that individual misconduct is not overlooked. Where there is doubt as to which category the allegation falls into there should be a presumption in favour of recording the matter as a Police Reform Act 2002 complaint.

What if the complainant isn't happy with my determination?

12. If you do not record a complaint under the Act you should nevertheless make clear to the complainant what will happen to their complaint if you believe it to be a direction and control complaint.

13. Where a complainant is not content with the classification and wishes the matter recorded as a complaint under the Act they will have the right of appeal to the IPCC who then make the determination.

What if the complainant changes their mind and wants to withdraw the complaint before it is recorded?

14. If the complainant wishes to withdraw their intention to complain before the formal recording has taken place there is no requirement upon the Appropriate Authority to make the recording.

15. Where a person indicates that they wish to make a complaint but it is possible to give an explanation, apology or take a course of action that will immediately satisfy the complainant the matter should be recorded and subjected to Immediate Local Resolution (see below) unless they explicitly request that the complaint not be recorded.

How should the complaint be recorded?

16. If you think a complaint should be recorded under the Act you should fill in the complaints form and pass it to your PSD for recording on the system, in a manner in line with force procedures.

What if I think the complaint concerns the conduct of an ACPO ranked officer?

17. Pass (to PSD to pass) to the clerk of the Police Authority.

What if it is about someone in a different force?

18. Pass to PSD to forward to appropriate force.

Pre-Emptive Action

19. It is important to remember the significant benefits, in terms of both goodwill and resource management, of practices that prevent complaints in the first place. You should consider how problem resolution, offering apologies, etc can sometimes defuse situations before complaints are made and also how training for particular scenarios may help prevent complaints.

Handling Complainants

20. It is important that complaint handlers deal with potential complainants in an open-minded manner and are able to clearly explain the process and assist the potential complainant in making an appropriate choice in an impartial way. Whether complaints are serious or not it is to the benefit of the force that they are dealt with correctly and suitably. Complainants should be provided with as much information about the process as possible.

Initial Action

21. This may be required before you are sure whether a statutory complaint is involved.

Referral to the IPCC

22. Where a case falls into the following categories (paraphrase of the legislation) you should take immediate steps to alert the PSD in accordance with force policy and refer the matter to the IPCC. (If you are in doubt take advice from the PSD.)

- Allegations of ABH using the CPS charging standard
- Allegations of 'hate crime'
- Allegations of corruption
- Serious injury cases
- Serious Arrestable Offences
- Allegations where death in custody or police shooting is involved.

(Any such cases where there is no public complaint that fall into this category should also be referred to the IPCC.)

Preservation of Evidence

23. As with any crime allegation you will need to establish what has happened and what is being alleged. The complaints form is designed to assist you in this process and must be filled in, **in all cases**. As well as recording the complainants' initial account you will need to consider whether the following are necessary:

- Medical examination of injuries
- Identifying witnesses
- Seizing of evidence for example, notes, CCTV, Custody Record, and Asps etc.

24. Your role at this stage is to ensure that all immediate necessary action has been taken. You should establish what has happened and been alleged, to inform your next course of action. In the majority of cases it will be quite apparent whether the matter is a complaint under the Act. Where you consider that the matter is a quality of service or direction and control issue this will be forwarded to the appropriate department in accordance with your force policy.

25. Where you consider that a complaint needs to be recorded but is not suitable for Local Resolution by you (as described below) you must pass the complaints form to the PSD. If they record it they will take it forward, through one of the following ways:

- Attempt Local Resolution
- Investigate
- Refer to the IPCC
- Apply to the IPCC for a dispensation.

Local Resolution

26. Local Resolution is a new term and replaces informal resolution of a complaint. Within Local Resolution the IPCC will authorise different procedures that can be followed. Certain cases will be appropriate for you to deal with under a Local Resolution process or the fast track procedure – Immediate Local Resolution (Explained later).

27. The aim of the Local Resolution procedure is to provide a speedy and satisfactory resolution to a complaint without the need for formal investigation and which meets with the complainant's needs. Many complainants state that they:

- just want an explanation from the force member concerned
- want to make sure that the same thing doesn't happen to someone else
- want a senior officer to convey their feelings and dissatisfaction at the way they were dealt with
- would like an apology
- would like training to be identified and implemented;
- wish some form of immediate reparation (ex gratia payment, repairs to property etc; but
- do not seek a formal investigation or disciplinary action.

28. If you wish to use a process of Local Resolution, you should refer to the LR section in the Reference Guide (unless you think Immediate Local Resolution is applicable –outlined later in this document)

29. A Local Resolution process could involve arranging a mediation meeting between the complainant and the person complained against, arranging for a more senior member of the force to visit the complainant, etc.

30. At the conclusion of the process you will need to forward the file, as soon as is practicable, to your Professional Standards Department for updating the complaints and misconduct record and storage. They will also deal with any appeal that is made by the complainant to the IPCC.

Complaints Suitable for Local Resolution

31. You should consider using LR where the allegation(s) if proven would not result in criminal or disciplinary proceedings. (If in any doubt take advice of the PSD.)³

32. When considering whether Local Resolution is suitable you should remember:

- The complainant must understand the procedure and give their consent;
- If the course of action is not conducted as it was explained to the complainant then it can be subject of an appeal to the IPCC;
- Do what you say you are going to do;
- Keep the complainant updated;
- Inform the complainant if an aspect cannot be carried out and renegotiate;
- The person complained against does not have to consent to the process for it to be used but they have the right to comment during the process;
- If you propose to conduct a meeting between the complainant and the person complained against then the person complained against must consent;
- If you want the officer to give an explanation to the complainant then they can do so in writing or orally without fear. What is said, by both parties, cannot be

³ Where more serious cases may be suitable for LR, you should refer to the PSD who will apply for approval from the IPCC.

used against them in any subsequent Criminal/ Disciplinary or Civil Proceeding unless they make an admission relating to some matter that is not subject of the Local Resolution;

- You cannot apologise on behalf of an individual without their consent; and;
- You can apologise on behalf of the force but should inform the force member that you are going to do so.

Dos and Don'ts

33. Do:

- listen to the complainant and treat their concerns seriously
- explain the complaints procedure fully so that the complainant can make an informed judgement – provide them with a leaflet covering the complaints system and LR.
- ask the complainant what they wish to achieve from making the complaint
- tell the complainant if their expectations are unrealistic
- give the complainant time to consider their course of action
- agree what action you are going to take
- keep the complainant informed of what you are doing specifically if the procedure is going to be delayed
- keep a full record of actions and meetings
- consider early financial compensation where police are at fault.

34. Do not:

- pressure a complainant to accept Local Resolution against their wishes
- agree to take action you cannot achieve.

How do I Secure an Immediate Local Resolution?

35. Immediate Local Resolution is a form of Local Resolution that allows you to deal with complaints in a quicker manner than other forms of Local Resolution by allowing you to deal with the complaint.

36. After considering the complaint on initial receipt or after completing initial inquiries and determining the case is appropriate for local resolution, you will need to ask the complainant what they want to achieve from making the complaint.

37. You may have already identified a training need or are confident that a simple explanation to events, apology or commitment to a particular course of action would satisfy the complainant.

38. In such a case Immediate Local Resolution (ILR) may be appropriate. Once you have recorded the details of the complaint on the complaint form, you can use management or desktop resolution to resolve a complaint immediately through the following procedure.

39. The object is to deal with the complaint as speedily and as simply as possible. However you should ensure the complainant understands what is going to happen and gives their consent (this should be in writing where practicable) and knows what will happen next. Therefore in a one or two sentences you should:

- Explain that you think you can arrange for the matter to be resolved and gain their consent;
- Inform them that once this has been done they will be notified that the complaint has been recorded and resolved and unless they appeal against the process used the complaint will be regarded as closed.

40. Immediate Local Resolution could take the form of:

- The person complained against being present or readily available and willing to explain his or her understanding of the incident, which has given rise to the complaint and/or willing to give an apology.
- You or another member of the force being able to give a satisfactory explanation, apology on behalf of the force, or giving undertaking to perform a course of action – training, advice, etc.

41. If the complainant accepts the explanation or, if appropriate, the apology as a satisfactory outcome, you should normally seek to obtain their signature on the complaint form to record their satisfaction at the outcome. If this is not possible, it should not prevent you from proceeding. You should then pass the complaint form to PSD and report how you have handled the complaint and explain why you consider it to be already resolved.

42. If PSD are content with how the matter has been handled they will record the complaint on the system. They will also write to the complainant and inform the person complained against that the complaint has been resolved and passing on any subsequent action taken. Subject to any representations that the complainant makes, the record of the complaint will be logged as being locally resolved and closed.

43.(If Immediate Local Resolution breaks down you should pass the complaint to PSD for recording on the system. This does not prevent you or PSD attempting Local Resolution again.)

Checklist for Handling Complaints

(You may wish to print and laminate this checklist and issue it to frontline staff dealing with complaints. This should only be used in conjunction with the main Reference Guide and the Brief Guide.)

1. **Does a member of the public have a concern that may be a statutory complaint against a member of the police?**
2. **Have I given them the IPCC's complaints leaflet?**
 - Be as open as possible about the complaints procedures and the options available to them
 - Do not try to discourage complainants from making complaints or be overly defensive.
3. **Does the complainant recognise the difference between statutory complaints (complaints against a member of the force) and direction and control complaints (concerned with policy/procedure)?**
 - Establish whether or not the complaint is against individual members of the force, or about the organisation and its policy and procedures, quality of service, etc (direction and control)
 - If they make clear during the course of the conversation that they do not want to make a complaint about the conduct of a member of the force, there is no need to arrange for recording under the statutory complaints procedure. If it is clear that they wish to make a complaint that relates to force policy rather than the conduct of an individual, details should be obtained and the matter referred to the Professional Standards Department for action in accordance with local force arrangements.

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- 4. Have I made arrangements to deal with any particular needs that they have?**
 - Is English their first language? Do they have special needs requirements?
 - 5. Have I got all the information required for the complaints form?**
 - 6. Do I need to tell someone immediately? Do I need to seek advice from PSD? Do I need to refer to the IPCC?**
 - 7. Do I need to preserve the scene/evidence?**
 - 8. Are we the right force? Is it about an ACPO officer?**
 - 9. Is it possible to resolve the complaint right away?**
 - Can you satisfy their concerns right away - give explanation, arrange meeting, if you have immediately locally resolved the complaint pass to PSD for recording with the complaints form
 - If the complainant decides that they do not wish the complaint to be formally recorded, then there is no need to take further action.
 - 11. Does the complainant have a good understanding what will happen next?**
 - 12. Is it suitable for Local Resolution or should it be passed to PSD?**