

Greater Manchester Police Fire & Crime Panel

Procedure for Dealing with Complaints made against the Greater Manchester Mayor and the Greater Manchester Deputy Mayor for Policing and Crime

1. Introduction

- 1.1 This procedure details the process for dealing with complaints about the conduct of the Greater Manchester Mayor (GMM) and Greater Manchester Deputy Mayor for Policing and Crime (GMDMP&C) as it relates to the discharge of their Police Fire and Crime functions.
- 1.2 The procedure has been introduced in accordance with Section 31 and Schedule 7 of the Police Reform and Social Responsibility Act 2011 (“the Police Reform Act”) and The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 (“the Complaints Regulations”). Nothing in this procedure overrules the provisions of those Regulations.
- 1.3 The procedure does not include complaints that are about the outcome of statutory police complaint reviews under Schedule 3 of the Police Reform Act 2002 where the local policing body is the Relevant Review Body. Such complaints can only be dealt with by way of Judicial Review and information is available on the GMCA website.
- 1.4 A flow chart providing an overview of the complaints process can be found at appendix 1.

2. Roles and Responsibilities

- 2.1 Police and Crime Panels have statutory responsibilities under the Complaints Regulations relating to the recording and determination of complaints against the GMM and GMDMP&C as it relates to the discharge of their Police Fire and Crime functions. The remainder of this procedure shall take complaints to mean complaints in relation to the discharge of their Police Fire and Crime functions, unless otherwise stated.
- 2.2 In accordance with Part 2 of the Complaints Regulations, the GM Police Fire and Crime Panel (GMPFCP) is responsible for initially handling all complaints against the GMM and GMDMP&C, including all Serious Complaints (as defined by Paragraph 2(6) of Schedule 7 to the Police Reform Act) and Conduct Matters (as defined by Section 31(1)(b) of the Police Reform Act). Any Serious Complaints or Conduct Matters must be referred to the Independent Office for Police Conduct (IOPC).

- 2.3 Regulation 6 of the Complaints Regulations requires the GMPFCP to be responsible for the following non delegable ‘general duties’ in relation to complaints against the GMM and GMDMP&C (referred to in the Complaints Regulations as “Relevant Office Holders”):
- a) To ensure that the GMPFCP is kept informed about all matters relating to a Relevant Officer Holder where these are:
 - matters with respect to which any provision of the Complaints Regulations has effect;
 - anything which is done under or for the purposes of any such provision; and
 - any obligations to act or refrain from acting that have arisen under the Complaints Regulations, but have not yet been complied with or have been contravened.
 - b) To provide the Director General and every member of the IOPC’s staff with assistance as reasonably required for the purposes of, or in connection with, the carrying out of any investigation by the Director General under Regulation 20 of the Complaints Regulations (Investigations by the IOPC itself).
 - c) To ensure that a person appointed under Regulation 19 of the Complaints Regulations (Investigations managed by the IOPC) to conduct an investigation under the management of the Director General is given all such assistance and co-operation in the carrying out of that investigation as that person may reasonably require.
- 2.4 Subject to the provisions of paragraph 5.10 and 5.11 below (complaints referred to the Monitoring Officer), for complaints not being dealt with by the IOPC, the GMPFCP can determine these through informal resolution in accordance with the arrangements set out in this procedure.
- 2.5 The Complaints Regulations and the Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012 enable some responsibilities in relation to the handling of complaints against the GMM and GMDMP&C to be delegated to a Chief Officer of a local authority in the police area. The GMPFCP has delegated the functions set out in Parts 2 and 5 of the Complaints Regulations to the GM Lead Chief Executive for Police and Crime. The GMPFCP has also delegated certain functions set out in Part 4 of the Complaints Regulations to the GM Lead Chief Executive.
- 2.6 The GM Lead Chief Executive is the main point of contact for complaints made under the Complaints Regulations and is responsible for recording formal decisions. (For the purposes of this procedure, reference to a “Recorded Complaint” means a Complaint that the GMPFCP is obliged under the Complaints Regulations to record by entry into the Recorded Complaints and Conduct Matters Register).

- 2.7 The GMPFCP will retain the responsibility for the overall effectiveness of this procedure and will monitor its implementation on a regular basis.

3. Scope of the Procedure

- 3.1 This procedure deals with complaints about the conduct of the Greater Manchester Mayor (“GMM”) or Greater Manchester Deputy Mayor for Policing and Crime “GMDMP&C”.
- 3.2 The procedure does not cover:
- Complaints about operational policing matters or the conduct of individual police personnel, which are dealt with by the Chief Constable.
 - Complaints about policing policy matters or complaints relating to the conduct of the Chief Constable, which are dealt with by the GMM.
 - Serious Complaints and Conduct Matters. Where a formal complaint has been received or the circumstances suggest potential criminal conduct of the GMM or GMDMP&C the matter will be referred to the Independent Office for Police Conduct (IOPC) for determination.
 - Complaints that are about the outcome of statutory police complaint reviews under Schedule 3 of the Police Reform Act 2002 where the local policing body is the Relevant Review Body. Such complaints can only be dealt with by way of Judicial Review and information is available on the GMCA website.

4. Making a complaint under this procedure

- 4.1 Complaints may be made in writing or by completing the complaint form attached at appendix 3 and returning to the GM Lead Chief Executive for the GMPFCP:

By post: The GM Lead Chief Executive for GMPFCP,
c/o

Jeanette Staley
Head of Community Safety
Place Directorate
Salford City Council
Civic Centre Complex,
The Annex Building,
Chorley Road
Swinton,
M27 5AW

By e-mail: jeanette.staley@salford.gov.uk

4.2 Complaints about the conduct of the GMM or GMDMP&C may also be submitted to the following people or organisations who will pass the complaint on to the GM Lead Chief Executive within 3 working days to deal with in accordance with the complaints procedure:

- The GMPFCP
- The GMM or GMDMP&C
- The Chief Constable of the GMP
- The IOPC

5. Initial Assessment on receipt of a complaint

5.1 The GM Lead Chief Executive has been delegated responsibility by the GMPFCP for the discharge of its statutory functions under Part 2 of the Complaints Regulations. This includes the initial assessment as to whether or not a matter constitutes a complaint which is to be dealt with under the Complaints Regulations.

5.2 On receipt of a complaint about the GMM or GMDMP&C the GM Lead Chief Executive will acknowledge its receipt and record the complaint.

5.3 Correspondence with a complainant is usually via email, however, formal letters will be sent as an email attachment with a printed copy also sent by post on request.

5.4 The Complaints Regulations require the GM Lead Chief Executive to maintain a Recorded Complaints and Conduct Matters Register (“the Register”) – see section 6. Certain complaints are exempt from the requirement to be entered into the Register; however the GM Lead Chief Executive will keep an informal record of all complaints received.

5.5 The GM Lead Chief Executive will then establish whether the complaint concerns the conduct of the GMM or the GMDMP&C.

5.6 If the complaint does not relate to the conduct of the GMM or GMDMP&C it will be referred to the appropriate body as referred to in section 3.2 and the file will be closed.

5.7 Where the complaint does relate to the conduct of the GMM or GMDMP&C the complaint will be formally recorded in the Register (unless one of the exemptions apply) and the GM Lead Chief Executive will assess whether the complaint is a ‘Serious Complaint’ or ‘Conduct Matter’.

5.8 A ‘Serious Complaint’ is a complaint which *constitutes* or *appears to constitute* or *involve* the commission of a criminal offence. Serious Complaints are dealt with by the IOPC to whom the GM Lead Chief Executive will refer the complaint. The GM Lead Chief Executive will inform the parties of the decision and close the file.

- 5.9 A 'Conduct Matter' only requires there to be an *indication* that the GMM or GMDMP&C *may* have committed a criminal offence. Conduct Matters can arise without a formal complaint having been made. The Chief Lead Officer must refer conduct matters to the IOPC. Following referral of a conduct matter to the IOPC for investigation, the GM Lead Chief Executive will inform the parties of the decision and close the file.
- 5.10 If a complaint is neither 'Serious' nor a 'Conduct Matter' and concerns the conduct of the Mayor or the Deputy Mayor for Policing and Crime, who is a member of the Greater Manchester Combined Authority at the time when the complaint is recorded, the GMPFCP shall pass the complaint to the Monitoring Officer appointed by the Greater Manchester Combined Authority under section 5(1) (a) of the Local Government and Housing Act 1989 ('the Monitoring Officer') who must deal with the complaint in accordance with paragraph 5.11 of this procedure.
- 5.11 On receiving a complaint in accordance with paragraph 5.10 of this procedure, the Monitoring Officer shall deal with it in accordance with the Greater Manchester Combined Authority's Code of Conduct adopted under section 27(2) of the Localism Act 2011. The Monitoring Officer shall as soon as practicable inform the GMPFCP of the outcome of the complaint.
- 5.12 Complaints which are neither 'Serious' nor a 'Conduct Matter' and concern the Deputy Mayor for Policing and Crime who is not a member of the Greater Manchester Combined Authority at the time when the complaint is recorded will be dealt with under the following procedure.
- 5.13 The delegation to the GM Lead Chief Executive also includes the discharge of the GMPFCP's duties under Regulation 8 of the Complaints Regulations in relation to the preservation of evidence which are set out in detail at section 12.

6. Taking no action on a Recorded Complaint

- 6.1 If a Recorded Complaint is not one that must be referred to the IOPC, and meets the criteria below, the GM Lead Chief Executive may handle the complaint in whatever manner he/she thinks fit.
- 6.2 The types of Recorded Complaint that may be dealt with in this way are:
- (a) Where the complaint is concerned entirely with the conduct of a relevant office holder in relation to a person who was working in his capacity as a member of staff deployed by the Greater Manchester Combined Authority wholly or partly in relation to

the Mayor's Police and Crime Commissioner or fire functions at the time when the conduct is supposed to have taken place;

- (b) Where more than twelve months have elapsed since the incident or the latest incident and no good reason for the delay has been shown or injustice would be likely to be caused by the delay;
- (c) The matter has already been the subject of a Complaint;
- (d) Where 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 vexatious, habitual, oppressive or otherwise an abuse of the procedures; (*see Appendix 2 for the procedure in handling vexatious, habitual complaints*).
- (f) The complaint is repetitious. A repetitious complaint is one which is substantially the same as a previous complaint, it concerns substantially the same conduct as a previous conduct matter, it contains no fresh allegations which significantly affect the account of the conduct complained of, no fresh evidence (being evidence which was not reasonably available at the time the previous complaint was made is tendered in support of it) and, in respect of the previous complaint or conduct matter, a determination or withdrawal of complaint has been made).

6.3 The GM Lead Chief Executive must notify the complainant that she/he has decided to handle the Recorded Complaint by taking no further action.

7. Complaints resolution

7.1 Stage one

- The GM Lead Chief Executive will acknowledge the complaint and provide the complainant with information about the next steps to be taken.
- The complainant may be asked to provide further information or detail if required in order for the GM Lead Chief Executive to properly consider the complaint under the Complaint Regulations.
- A copy of the complaint will be provided to the GMDMP&C unless the GM Lead Chief Executive is of the opinion that to do so might prejudice any criminal investigation or pending proceedings, or would otherwise be contrary to the public interest.

- The GM Lead Chief Executive will invite written comments from the complainant and GMDMP&C as soon as practicable. Any comments received will be considered by the GM Lead Chief Executive.
- If the complaint can be resolved at this stage on the available information, the Lead Chief Officer will conduct an informal resolution. The decision will be communicated to all parties and the complaint record will be updated and the file closed.
- If it is not possible to resolve the complaint at this stage the Lead Chief Officer will refer the complaint to a Sub-Committee of the GMPFCP who shall arrange for informal resolution of the complaint in accordance with the arrangements below.

7.2 Informal Resolution Sub-Committee

- An Informal Resolution of Complaints Sub-Committee of the GMPFCP, consisting of 3 Members of the GMPFCP, including where possible the Chair or Vice Chair of the GMPFCP, and one of the Independent Members of the GMPFCP will be appointed by the GM Lead Chief Executive, to consider the complaint and secure the informal resolution.
- The appointment of the Resolution Sub-Committee will take place after the GM Lead Chief Executive has consulted the Chair of the GMPFCP, who may request that the matter be referred to the full GMPFCP.
- The informal resolution will not include a formal investigation of the complaint but documents in relation to the complaint and meetings with the person complained against may be requested.
- In attempting to secure informal resolution of the complaint, the Resolution Sub-Committee will consider whether any further information, clarification or explanation is required and will provide an opportunity for both the complainant and the person complained against to comment on the complaint as soon as is practicable.
- Where the person complained against chooses not to comment on the complaint when invited to do so by the Resolution Sub-Committee, the Resolution Sub-Committee will record this fact in writing.
- Where it appears to the Resolution Sub-Committee that a Recorded Complaint against the GMDMP&C had in fact already been satisfactorily dealt with at the time it was brought to their notice, the Resolution Sub-Committee may, subject to any further

representations, treat it as having been resolved. The Resolution Sub-Committee shall, prior to making a final decision that a complaint has already been resolved, give the complainant and the person complained against an opportunity to comment on the proposed decision.

- The Sub-Committee will consider both written and oral evidence and make an informal resolution. The decision of the Sub-Committee will be communicated to all parties, the complaint record updated and the file closed.
- The GM Lead Chief Executive or Sub-Committee of the PFCP may seek informally to resolve a complaint by securing an apology from the GMDMP&C to the complainant, either directly or indirectly. The Resolution Sub-Committee will not, however, tender on behalf of the person complained against an apology for his / her conduct unless the person complained against has agreed to issue the apology.
- In exceptional circumstances a complaint may be referred to the PFCP as a whole if the GM Lead Chief Executive is of the opinion that this will lead to a more satisfactory resolution of the complaint.

8. Complaint Outcomes

8.1 There are a number of possible outcomes following a complaint investigation:

- Complaint not upheld
No further action to be taken.
- Complaint upheld / partially upheld

9. Recording of a Resolution

9.1 The GM Lead Chief Executive will make a record of the outcome of the complaints procedure as soon as practicable and send a copy of the record to the complainant and the person complained about.

9.2 In accordance with the Complaints Regulations, the GM Lead Chief Executive will not publish any part of any record unless it has:

- Given the complainant and the person complained about the opportunity to make representations in relation to the proposed publication; and
- Considered any such representation and is of the opinion that publication is in the public interest.

- 9.3 In cases where a complaint has been upheld by either the GM Lead Chief Executive or Sub-Committee of a PFCP, there are no legal powers to apply formal sanctions other than to provide an opinion on the conduct of the office-holder concerned. This shall be provided within ten working days of the resolution of the Chief Executive or Sub-Committee as appropriate.

10. Timescales

- 10.1 Complaints dealt with in accordance with this procedure are subject to the following timescales:
- Acknowledgement of complaint and notification to the GMDMP&C - within 5 working days of receipt.
 - Consideration of complaint by GM Lead Chief Executive (Stage One) – 15 working days.
- 10.2 Following consideration of the complaint by the GM Lead Chief Executive , either:
- The GM Lead Chief Executive determines the complaint is not upheld or conducts informal resolution and informs all parties – 10 working days, or
 - A Sub-Committee of the PFCP is convened to conduct an informal resolution and inform all parties – 20 working days.
- 10.3 The aim is to deal with all complaints within the timescales above; however, there is an element of flexibility depending on the circumstances of each individual complaint. The complainant will be advised of any anticipated extensions to the specified timescales.

11. Recorded Complaints and Conduct Matter Database

- 11.1 The GM Lead Chief Executive is required by the Complaints Regulations to establish and maintain a 'Recorded Complaints and Conduct Matters Register' ("the Register"). The register is in the form of an electronic database in which all key details of a complaint are recorded.
- 11.2 The GM Lead Chief Executive will record a complaint in the Register unless any of the following exceptions apply, in which case it is not necessary to record the complaint (in whole or part):
- (a) if it has been or is currently being dealt with by criminal proceedings (this will normally be the case where the Police have formally charged the person complained about or

information alleging an offence has been laid before a magistrates court); or

(b) the complaint has been withdrawn.

11.3 If the GM Lead Chief Executive does not record a complaint in the Register, the complainant will be notified and provided with the reasons for the decision not to record the complaint and therefore take no action upon it (including whether this relates to the whole or part of the complaint).

12. The GMPFCP's duties to obtain and preserve evidence

12.1 The GM Lead Chief Executive has been delegated the discharge of the GMPFCP's statutory duties under Regulation 8 of the Complaints Regulations in relation to the preservation of evidence. This means that when a complaint comes to the attention of the GM Lead Chief Executive, she/he is under a duty to secure that all steps as appropriate are taken for obtaining and preserving evidence in relation to the conduct in question, both initially and from time to time after that. It is not the GM Lead Chief Executive's role to investigate matters and it is likely that before taking steps to obtain or preserve evidence the GM Lead Chief Executive will normally consult the IOPC. The IOPC may also give the GM Lead Chief Executive, the GMPFCP and relevant Office Holders directions for obtaining and preserving evidence.

12.2 Accordingly, the GM Lead Chief Executive may make formal requests of any of the following persons to take such steps as the GM Lead Chief Executive considers are expedient or necessary for obtaining and preserving evidence in relation to the conduct in question, both initially and from time to time after that, including requests that steps are taken concerning the disposition of the property and resources of the GMM's office (such as its buildings, assets, equipment, supplies, accounts, records, information, electronic data etc. in their widest sense and wherever located) or other persons:

- The GMM and GMDMP&C;
- Any employees of the GMM's office;
- Any member or employee of a functional body; and
- Any person or organisation having a current or past contractual relationship with the GMM office or its predecessors or in receipt of a grant from such bodies.

12.3 A person given a direction by the GM Lead Chief Executive under this Procedure shall comply with it in full and shall generally cooperate with the GM Lead Chief Executive and his or her authorised officers in the discharge of their statutory duties under the Complaints Regulations.

- 12.4 Such persons shall also permit access and render possession of any such evidence in relation to the conduct complained about to the GM Lead Chief Executive as is in their possession, custody or control in accordance with the GM Lead Chief Executive's instructions.
- 12.5 The GM Lead Chief Executive shall inform the GMPFCP of any instances where there has been a complete or partial failure by any person or organisation to comply with any request regarding evidence.
- 12.6 As set out at paragraph 2.3 above, the GMPFCP has a non-delegable duty under the Complaints Regulations to ensure that it is kept informed of matters relating to the conduct of the relevant Office Holders. The GM Lead Chief Executive will therefore submit a report to the GMPFCP at its Annual Meeting in June of each year setting out information in relation to the number and nature of complaints made against the GMM and GMDMP&C during the previous financial year.

13. Withdrawal of a complaint

- 13.1 If the GM Lead Chief Executive receives a notification that the complainant wishes to withdraw their complaint, signed either by the complainant, their solicitor or another person acting on the complainant's behalf, the Complaints Regulations will cease to apply to the complaint, subject to the following provisions:
- (a) If the Recorded Complaint is with the IOPC, the GM Lead Chief Executive must notify the IOPC that she/he has recorded the withdrawal of the complaint.
 - (b) In the case where the IOPC has referred the Recorded Complaint to GM Lead Chief Executive, she/he must consider whether it is in the public interest for the complaint to be treated as a Conduct Matter (notwithstanding the complaint's withdrawal) and shall notify the IOPC accordingly.
- 13.2 In respect of a Recorded Complaint which has not been notified to the IOPC, the GM Lead Chief Executive must determine whether it is in the public interest for the complaint to be treated as a Conduct Matter despite the complainant's withdrawal of it. The GM Lead Chief Executive shall notify the GMM or GMDMP&C complained about of the recording of a withdrawal of the Recorded Complaint and whether she/he has decided to treat it as a Recorded Conduct Matter notwithstanding, and shall amend the Register accordingly.
- 13.3 The IOPC, on receiving notification of withdrawal from the GM Lead Chief Executive of a Recorded Complaint referred to it, shall determine whether it is in the public interest for the complaint to be treated as a Recorded Conduct Matter and notify the GM Lead Chief

Executive, who shall notify the complainant and amend the Register accordingly.

- 13.4 The Complaints Regulations also contain provisions for contacting the complainant if they indicate they wish to withdraw their Recorded Complaint, but have not signed the withdrawal request.
- 13.5 If the IOPC refers a matter back to the GM Lead Chief Executive, it shall be dealt with in accordance with the guidance on Resolution of Complaints.

14. Local Government and Social Care Ombudsman

- 14.1 Where all other procedures have been exhausted and the complainant is still not happy about the way their complaint has been handled, they can refer the matter to the Local Government and Social Care Ombudsman, who can carry out an investigation on their behalf.