



# Cumbria Office of the Police and Crime Commissioner

## Case Sampling Protocol

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# Introduction

Each police and crime commissioner for a police area has a number of statutory responsibilities, which are principally laid out in the Police Act 1996 (as amended by the Police Reform and Social Responsibility Act 2011).

The Police & Crime Commissioner will hold the Chief Constable to account for the service which the public should expect from the Police & Crime Commissioner and the Constabulary. Part of that service will be the dealing of complaints.

Amendments to the police complaints system by the Police Reform and Social Responsibility Act were designed to streamline and remove unnecessary bureaucracy from the system ensuring that complaints are handled at the lowest appropriate level.

Schedule 14, Section 7 of the Police Reform and Social Responsibility Act gives power to the 'local policing body' to direct the chief officer of police to comply with obligations in regard to complaints and therefore the monitoring of complaints would be seen by a Police and Crime Commissioner as an important part of their role. The local policing body may direct the Chief Officer to take such steps as the local policing body thinks appropriate and the Chief Officer must comply with any direction given.

Five elements, which the Police & Crime Commissioner should have in place to maintain effectively an ongoing scrutiny and oversight of complaints against the Constabulary would be:

1. Process and procedural audits as compared with Home Office Guidance on complaint handling;
2. Dip-sampling of completed complaints files;
3. Analysis of statistics and trends;
4. Strategic analysis;
5. Discussion with stakeholders and partners.

This protocol is to specify procedures adopted by agreement between the Police and Crime Commissioner and Cumbria Constabulary, particularly towards elements numbered 1 and 2 above.

These procedures are intended to assure public trust and confidence by embedding transparent and structured processes for the Police & Crime Commissioner to discharge that individual element more effectively, as part of their overall function.

This approach will also enhance the Police & Crime Commissioner's ability to fulfil the other elements, as well as the enhanced expectations of the Independent Police Complaints Commission (IPCC) introduced under the Police Reform Act 2002. The

IPCC has produced Statutory Guidance which outlines the responsibilities of Police & Crime Commissioners.

The purpose of this structured approach is to ensure that complaints in Cumbria are being dealt with rigorously and fairly, in line with IPCC Statutory Guidance and Constabulary policies and procedures, under processes understood by the Police and Crime Commissioner. If a series of cases (on their facts and outcomes) together indicated a consistent area for concern, then the Police and Crime Commissioner may review them in conjunction with the Constabulary and other stakeholders to see whether wider lessons emerge.

# Case Sample Procedure

The Ethics and Integrity Panel, accompanied by a member of staff from the Office of the Police & Crime Commissioner, will attend by arrangement the offices of the Constabulary's Professional Standards Department no more than once every calendar month and no less than once on a quarterly basis.

The Office of the Police & Crime Commissioner and Professional Standards Department Admin Managers are responsible for making these arrangements, according to the availability of individual staff.

The Ethics and Integrity Panel will audit process and procedures using agreed checklists as attached (Appendices 1 to 4). Files will be selected from a list of closed and direction and control complaints, provided by the Professional Standards Department to the member of staff at the time of attendance.

## Number or proportion of completed files to be inspected

It is not practical to inspect all files completed during the quarter year preceding the case sampling session. Instead an agreed number of completed files from the quarter year preceding the meeting will be inspected.

The number identified for inspection has been agreed as representing both an appropriate proportion from the total number of files completed in an average year and also a realistic quantity for the members of the Ethics and Integrity Panel to give appropriate attention to.

(The Police & Crime Commissioner reserves the right to increase or decrease that specified number if necessary, by agreement with the Constabulary. The frequency of attendances to the PSD Offices will also influence the number of files which are dip-sampled. However, the Constabulary is committed to assisting this process in enhancing trust and confidence in the police complaints system and restrictions on access to files should not be a barrier.

1. The number of dip-sampled files chosen from those concluded by means of Local Resolution to be inspected at a meeting is: **4 (four)**
2. The number of dip-sampled files chosen from completed files (other disposals, eg investigation) to be inspected at a meeting is: **5 (five)**
3. The number of dip-sampled files chosen from those recorded as Direction and Control to be inspected at a meeting is: **4 (four)**

4. The number of completed files chosen to be put forward by the Constabulary for inspection at a meeting (on the basis they represent instructive examples of Substantiated; Best Practice; or Unusual / Problematic cases) is: **3 (three)**
5. The number of non-recorded complaints completed within the reporting quarter is: **4 (four)**

[NB: In conducting dip-sampling under this protocol it is important to note it is not a review of the appropriateness or otherwise of the conclusion reached in any individual case. There should not be undue weight on the factual issues arising in a case.]

### Completed Appeal files to be inspected

From 22 November the IPCC will deal with any appeals against non-recorded complaints, conduct of a senior officer (rank above Chief Superintendent), ie more serious allegations, along with specific appeals in respect of managed or supervised investigations. As they have had involvement in the complaint they will be the appropriate body to deal with the appeal.

The Constabulary will deal with appeals resulting from local resolution outcome complaints, local investigation outcome complaints, appeal against disapplication/ discontinuation granted by the Constabulary.

5. The number of appeal files chosen from those concluded by the Constabulary to be inspected at a meeting is: **10%** of the finalised number (or a minimum of **2** whichever is the greater).

## Case Sample Outcomes

This case-sampling protocol represents an understanding agreed between the Constabulary and the Police & Crime Commissioner in Cumbria. It is intended to constitute an important limb of the overall scrutiny and public accountability which is delivered by a Police & Crime Commissioner in pursuit of statutory duties set out the Police Reform and Social Responsibility Act 2011.

In particular, within its own Single Equality Scheme, the Police & Crime Commissioner has prioritised and assessed their functions for relevance to equality. Complaints against the police is a key area where realised or potential impacts on human rights, race, or other equality issues can be revealed. (“Stop & Search” or “Stop & Account” provides one important example). This is why the vigilance of the Police & Crime Commissioner provides one important part of the framework of remedies and reassurances available to members of the public in this field.

This protocol is therefore intended to help:

- provide public reassurance about the integrity, effectiveness and efficiency of policing in Cumbria;
- assess the risk of policing impacting adversely and disproportionately on human rights; or on minority or minority ethnic groups in Cumbria;
- assess whether such risks can be justified as proportionate, legitimate, legal, and minimised;
- assist decision-making about the policing method or policy involved.

When assessing the potential impact or indicated effect of policing processes, methods, procedures or policy upon equality, consideration will at the same time be given to ethnic or national origin, race, colour, or nationality. (Where an impact is also identified on other minorities, or on issues of religious belief, gender, sexual orientation, disability, age and social background, then this will also be reported on where appropriate).

## Concerns or Questions

The member of staff will at the first instance bring any concerns or questions they may have about processes or procedures to the attention of the Head of Professional Standards Department, to invite explanations.

They will also draw them to the attention of the Police & Crime Commissioner by way of a written quarterly report. The Police & Crime Commissioner may then wish to raise the matter with the Deputy Chief Constable who will respond, as appropriate, with advice and explanations.

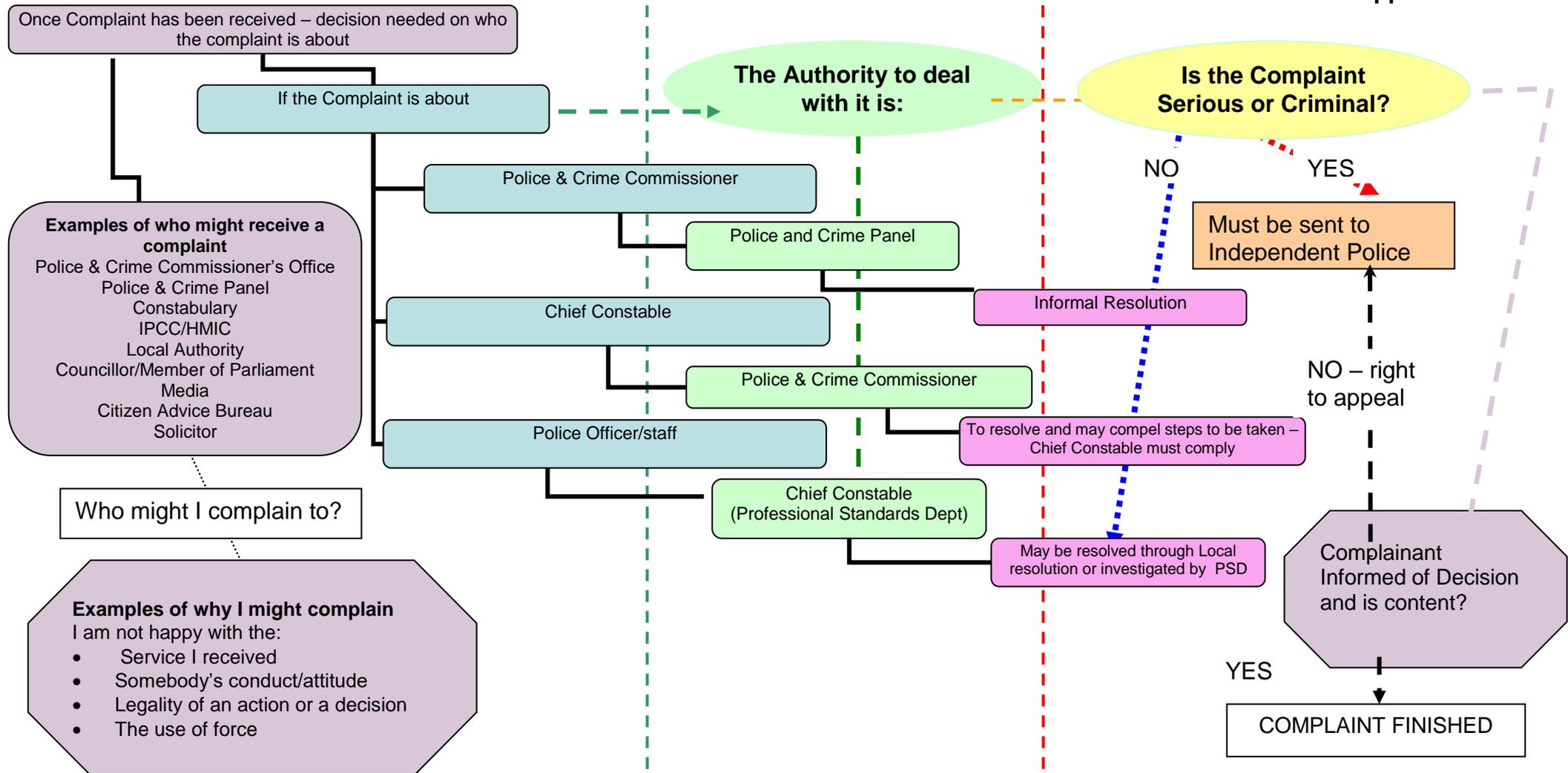
In addition to the above, the member of staff's report will also measure their satisfaction with the sampling visit, the application of the checklists and the outcome of the sampling exercise.

# Appendices

The following supporting documents illustrate in flow chart or checklist form the processes followed:

1. Complaints process map (flow chart)
2. Checklist for Case Sampling Complaint Files
3. Case Sample forms

Appendix 1



## Appendix 2



## Checklist for Case Sampling Complaint Files

|     | Area to Review  | Checks to Make   |
|-----|---|--|
| 1.  | Initial Assessment                                    | Is it clear that an initial assessment was made and recorded?  |
| 2.  | Complaint Form  | Was the form completed correctly with sufficient information?  |
| 3.  | Acknowledgement of receipt of complaint               | Letter to complainant – timely and responsive? Is investigating officer identified to complainant?   |
| 4.  | Keeping complainant informed                          | Was acknowledgement of receipt sent to the complainant and that they were kept informed on an ongoing basis (usually every 28 days)?   |
| 5.  | Officer/staff member subject of complaint             | Is there evidence to show how the officer was informed of the complaint and kept informed on an ongoing basis?   |
| 6.  | Local Resolution or Dispensation                      | Is there evidence that the process was followed and fully documented?  |
| 7.  | Withdrawal  | Is this fully documented?  |
| 8.  | Time taken to complete                                | Has a reasonable amount of time been taken to complete the investigation?<br><br><u>Complaint Timescales</u><br>Local Resolution - 40 days<br>Investigations - 120 days<br>Direction and Control - 40 days |
| 9.  | Justification of the outcome of the complaint process | Has the approach, review and conclusion been appropriate and supported by evidence?  |
| 10. | Final response to the complainant and the officer     | Were the final responses timely, responsive and conclusive? Did it identify to the complainant the right of appeal?  |

## Appendix 2



## Checklist for Case Sampling Appeal Files

|    | Area to Review   | Checks to Make  |
|----|--|---|
| 1. | Initial Assessment of Appeal   | Is it clear that an initial assessment was made of the Appeal and recorded?   |
| 2. | Appeal letter/form   | Was sufficient information provided as to the nature of the appeal?   |
| 3. | Acknowledgement of receipt of Appeal   | Letter to complainant – timely and responsive? Is investigating officer identified to complainant?  |
| 4. | Keeping complainant informed   | Was acknowledgement of receipt sent to the complainant and that they were kept informed on an ongoing basis (usually every 28 days)?                          |
| 5. | Officer/staff member subject of complaint                                      | Is there evidence to show how the officer was informed of the complaint and kept informed on an ongoing basis?  |
| 6. | Time taken to complete   | Has a reasonable amount of time been taken to complete the Appeal?<br><br><u>Appeal Timescales</u><br>Appeal decision 40 days<br>Re-Investigations - 120 days |
| 7. | Justification of the outcome of the Appeal process                             | Has the approach, review and conclusion been appropriate and supported by evidence?   |
| 8. | Final response to the complainant and the officer re the outcome of the Appeal | Were the final responses timely, responsive and conclusive? Did it identify to the complainant any right of further appeal?                                   |

**Appendix 3**

CO / .....

LOCAL RESOLUTION FILE

Conduct / Direction and Control Complaint (*\*delete as appropriate*)

| <b>Local Resolution File</b>   |               |            |
|--|---------------|------------|
| <b>Description</b>   | <b>Number</b> | <b>Y/N</b> |
| Complaint document – Form 31/letter from complainant or complainant’s solicitor          | 2             |            |
| Computer case print recording detail of complaint  | 4             |            |
| Letter to complainant acknowledging complaint (not applicable if resolved an area)       | 9             |            |
| Notification to officer(s) if known  | 10            |            |
| Correspondence with IPCC re LR process (if applicable)                                   | 6             |            |
| Completed Form 31 detailing local resolution agreement signed by complainant             | 6             |            |
| Finalisation letter to complainant confirming local resolution and enclosing appeal form | 5             |            |
| E-mail to officer(s) informing them the matter has been locally resolved                 | 10            |            |
| Best Practise issue(s) and action (if applicable)  | 7             |            |
| Number of days taken to complete LR process  |               |            |

|  |  |  |
|--|--|--|
| Has the file been completed in a timely manner?                              |  |  |
| Do letters and emails contain sufficient detail?                             |  |  |
| Could the local resolution have been dealt with earlier or more efficiently? |  |  |

NOTE

- A supervisory officer in Area may seek to locally resolve a complaint and if successful will submit a completed Form 31 for recording.

Comments: .....

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Signed .....

Date .....

CO / .....

WITHDRAWN / NOT PROCEEDED WITH FILES

Conduct / Direction and Control Complaint (*\*delete as appropriate*)

| <b>Withdrawn/Not Proceeded with Files</b>  |               |            |
|--|---------------|------------|
| <b>Description</b>   | <b>Number</b> | <b>Y/N</b> |
| Complaint document – Form 31/letter from complainant or complainant’s solicitor    | 2             |            |
| Computer case print recording detail of complaint                                  | 4             |            |
| Letter to complainant acknowledging complaint (not applicable if resolved in area) | 9             |            |
| Statement of withdrawal from complainant (if applicable)                           | 6             |            |
| Finalisation letter to complainant confirming withdrawal                           | 5             |            |
| Letter/email to officer(s) informing them the matter has been withdrawn            | 10            |            |
| Best practise issue(s) and action (if applicable)                                  | 7             |            |
| Number of days taken to finalise matter  |               |            |

|   |  |  |
|---|--|--|
| Has the file been completed in a timely manner?   |  |  |
| Do the letters/updates provide sufficient detail? |  |  |

NOTES

Even though a complaint may be withdrawn it may be necessary to continue the investigation as a recordable conduct matter under the Police Reform Act (internal enquiry).

Comments .....

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Signed .....

Date .....

CO / .....

DISAPPLICATION / DISPENSATION / DISCONTINUANCE GRANTED BY IPCC/FORCEConduct / Direction and Control Complaint (*\*delete as appropriate*)

| <b>Disapplication/Dispensation/Discontinuance Granted by IPCC /FORCE</b>   |               |            |
|--|---------------|------------|
| <b>Description</b>   | <b>Number</b> | <b>Y/N</b> |
| Complaint document – Form 31/letter from complainant or complainant’s solicitor  | 2             |            |
| Computer case print recording detail of complaint  | 4             |            |
| Letter to complainant acknowledging complaint  | 9             |            |
| If complaint is over 12 months old, a letter will normally be sent seeking satisfactory explanation for delay  | 9             |            |
| Notification to officer(s) if known  | 10            |            |
| Request for disapplication/dispensation/discontinuance report (standard pro-forma completed for IPCC or report/minute sheet for Force)   | 6             |            |
| Reply from IPCC with decision (if applicable)<br>If decision made by Force – letter to complainant with appeal details<br><b>(Note – no appeal regarding D&amp;C complaints)</b> | 5             |            |
| Letter or e-mail to officer(s) informing them that a dispensation/discontinuance has been granted and no further action will be taken  | 10            |            |
| Best practice memorandum and action (f applicable)   | 7             |            |
| Number of days taken to finalise matter  |               |            |

DISAPPLICATION / DISPENSATION / DISCONTINUANCE BY FORCE IN SUB JUDICE CASES

| <b>Disapplication/Dispensation/Discontinuance</b>   |               |            |
|---|---------------|------------|
| <b>Description</b>  | <b>Number</b> | <b>Y/N</b> |
| Complaint document – Form 31/letter from complainant or complainant’s solicitor                               | 2             |            |
| Computer case print recording detail of complaint   | 4             |            |
| Letter to complainant acknowledging complaint   | 9             |            |
| If complaint is over 12 months old, a letter will normally be sent seeking satisfactory explanation for delay | 9             |            |
| Notification to officer(s) if know  | 10            |            |
| Letter to complainant requesting they contact IO/PSD to progress investigation                                | 9             |            |
| Letter to complainant informing them discontinuance has been granted  | 5             |            |
| Letter/email to officer(s) informing them discontinuance has been granted                                     | 10            |            |
| Best practice memorandum and action (f applicable)  | 7             |            |
| Number of days taken to finalise matter   |               |            |

|   |  |  |
|---|--|--|
| Has the file been completed in a timely manner? |  |  |
| Do letters/emails provide sufficient detail?    |  |  |

NOTES

- A disapplication/dispensation/discontinuance may be sought from the IPCC at the outset where an investigation is not reasonably practicable (usually because the complainant fails to contact the Investigating Officer (IO)) it is a repetition of a previously finalised complaint or it is over 12 months old and satisfactory explanation for delay has not been given.

- A disapplication/dispensation/discontinuance may be granted by the IPCC if the criteria required are met when an investigation is already underway.
- A disapplication/dispensation/discontinuance may be granted by the force in sub-judice cases when the complainant fails to co-operate after the criminal case is concluded.

Comments .....

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Signed .....

Date .....

CO / .....

INVESTIGATION FILEConduct / Direction and Control Complaint (*\*delete as appropriate*)

| <b>Investigation File</b>  |               |            |
|--|---------------|------------|
| <b>Description</b>   | <b>Number</b> | <b>Y/N</b> |
| Complaint document – Form 31/letter from complainant or complainant's solicitor  | 2             |            |
| Computer case print recording detail of complaint  | 4             |            |
| Risk Assessment (if appropriate)   |               |            |
| If serious misconduct/criminal   |               |            |
| (i) Initial assessment   | 3             |            |
| (ii) Appropriate resourcing  |               |            |
| (iii) Terms of Reference   | 6             |            |
| (iv) Investigation Plan  | 6             |            |
| (v) Reviews by Management (timely with consultation as appropriate)  |               |            |
| Letter to complainant acknowledging complaint  | 9             |            |
| Notification to officer(s)   | 10            |            |
| Investigation report compiled by Investigating Officer (may be full or abbreviated)  | 5             |            |
| Letter submitting report to Crown Prosecution Service for advise (only if criminal allegations involved)   | 11            |            |
| Letters to update the complainant(s) of progress during investigation  | 9             |            |
| Updates to officer(s) regarding progress of investigation  | 10            |            |
| Letter to complainant advising of outcome and enclosing appeal form  | 5             |            |
| Email to officer(s) advising of outcome OR memorandum to Area Commander for executive action arising from an Investigation (eg advise to officers, changed in procedure) only send if applicable | 10            |            |
| Best Practise issue(s) and action (if applicable)  | 7             |            |
| Investigation Time   |               |            |

|   |  |  |
|---|--|--|
| Has the file been completed in a timely manner? |  |  |
| Was the investigation proportionate?            |  |  |
| Do letters/emails provide sufficient detail?    |  |  |

NOTES

- PSD aim to complete investigations in 120 days from the date the complaint is recorded (or if related court proceedings from the date those court proceedings are concluded) to the date the IO submits a final report.
- If the investigation is supervised (serious cases only) by IPCC there will be a letter on the file from IPCC member involved indicating they are satisfied with the conduct of the investigation.
- Note, any warranted delays with the process eg time under consideration by CPS, or IPCC for supervised complaints, informing officers of outcome.
- The contents of the IO's report will already have been scrutinised in detail by PSD, Command, CPS (if applicable) and the IPCC (if supervised or managed).

- Members of staff subject to complaints are notified of the allegations by means of a notice or email served upon them. These documents will be contained within the file.
- There is a request to keep complainants updated on the progress of their case every 28 days, although this may be done verbally.

Signed .....

Date .....

CO / .....

APPEAL FILE

| Description   | Number | Y/N |
|---|--------|-----|
| Appeal document – Form 31/letter from complainant or complainant’s solicitor                                  | 2      |     |
| Letter to complainant acknowledging Appeal  | 9      |     |
| Notification to officer(s) if known   | 10     |     |
| Update letter to complainant/officer(s) every 4 weeks (if applicable)   | 9 / 10 |     |
| Completed appeal report   | ??     |     |
| Finalisation letter to complainant confirming outcome of Appeal and advising of any further rights of appeal. | 5      |     |
| E-mail to officer(s) informing them of the outcome of the Appeal  | 10     |     |
| Is the complaint to be re-investigated?   |        |     |
| If yes, is this due to a failure in the way the complaint was dealt with originally?                          |        |     |
| Best Practise issue(s) and action (if applicable)   | 7      |     |
| Number of days taken to complete Appeal process   |        |     |

|  |  |  |
|--|--|--|
| Has the Appeal been completed in a timely manner?                  |  |  |
| Do letters and emails contain sufficient detail?                   |  |  |
| Could the Appeal have been dealt with earlier or more efficiently? |  |  |

NOTES

- Centurion, the Constabulary’s computer system does not have the facility to be updated for an ‘appeal’ scenario.
- There are no statutory timescales for an appeal to be completed within. However PSD will aim to complete the Appeal within a reasonable timescale.
- If the Appeal is upheld and is to be investigated PSD will aim to complete the investigation within 120 days from the date the appeal is recorded to the date the IO submits a final report.
- There is a request to keep complainants updated on the progress of their Appeal every 28 days, although this may be done verbally but a note will be made in the file to this effect.
- Complainants will be advised of the outcome of their Appeal and whether or not they are entitled to any further appeals either by the Constabulary or with the IPCC.

Comments: .....

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Signed .....

Date .....

CO / .....

Non-Recording Decision

Conduct / Direction and Control Complaint (*\*delete as appropriate*)

| Description  | Y/N |
|--|-----|
| Complaint document – Form 31/letter from complainant or complainant’s solicitor                      |     |
| Letter to complainant advising that the complaint is not to be recorded and enclosing appeal details |     |
| E-mail to officer(s) informing them of the complaint and that the complaint is not to be recorded    |     |
| Best Practise issue(s) and action (if applicable)  |     |
| Number of days taken to complete the decision process  |     |

|  |  |
|--|--|
| Has the file been completed in a timely manner?  |  |
| Do letters and emails contain sufficient detail? |  |

NOTE:

- The Independent Police Complaints Commission (IPCC) expects a recording decision to be made within ten working days of receipt of a complaint.

Comments: .....

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Signed .....

Date .....