



**Peter McCall**

**POLICE, FIRE & CRIME  
COMMISSIONER**

# Cumbria Office of the Police, Fire and Crime Commissioner

**Case Sampling Protocol  
2023-2026**

## Document control

This policy applies to all employees of the Office of the Police, Fire and Crime Commissioner for Cumbria.

<b>Date of last review</b>	Reviewed September 2023, updating amendments made.
<b>Date of next review</b>	March 2026
<b>Owner</b>	Head of Communications and Business Services
<b>Equality Impact Assessment</b>	25/2/2015

## Distribution and Consultation Record

<b>Date</b>	July 2019
<b>Version</b>	V2
<b>Authors</b>	Joanne Head, Governance Manager

## Version Control

Plan Approval	
<b>Approved By</b>	OPCC Executive Team
<b>Signature</b>	Gill Shearer at OPCC Executive Team
<b>Date</b>	24 June 2020
<b>Equality Impact Assessment completed</b>	Date

<b>Version.03</b>	Created April 2020
<b>Department</b>	Office of the Police and Crime Commissioner
<b>Contact</b>	Joanne Head, Governance Manager

<b>Version.04</b>	Created April 2022
<b>Department</b>	Office of the Police and Crime Commissioner
<b>Contact</b>	Joanne Head, Governance Manager

<b>Version.05</b>	Created September 2023
<b>Department</b>	Office of the Police, Fire and Crime Commissioner
<b>Contact</b>	Joanne Head, Governance Manager

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# Introduction

The Police, Fire and Crime Commissioner for Cumbria is two separate corporation soles: The Police and Crime Commissioner for Cumbria and the Cumbria Commissioner Fire and Rescue Authority.

This protocol is to specify procedures adopted by agreement between the Commissioner, Cumbria Constabulary and Cumbria Fire and Rescue Service in relation to case sampling agreed areas of business.

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

## Cumbria Constabulary

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, Fire and Crime Commissioner (Commissioner) will hold the Chief Constable to account for the service that the public should expect from the Commissioner and the Constabulary. Part of that service will be the dealing of complaints. Indirectly, part of that service will be dealing with Police Staff Disciplinary cases. This will be an independent process of scrutiny carried out by an Ethics and Integrity Panel with representatives drawn from outside of the Constabulary, Fire Service and the OPFCC.

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 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.

The Policing and Crime Act 2017 has mandated that all Police and Crime Commissioners are to carry out reviews of 'Recorded - No Investigation' complaints, where the complainant is unhappy with the outcome. Commissioners may if they wish have involvement within other areas of the complaint process following consultation with the Chief Constable and appropriate staffing arrangements made.

Five elements, which the Police, Fire and 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 and disciplinary files;
3. Analysis of statistics and trends;
4. Strategic analysis;
5. Discussion with stakeholders and partners.

This approach will also enhance the Commissioner's ability to fulfil the other elements, as well as the enhanced expectations of the Independent Office of Police Conduct (IOPC) introduced under the Police Reform Act 2002. The IOPCC has produced Statutory Guidance that outlines the responsibilities of Police and 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 IOPC Statutory Guidance and Constabulary policies and procedures, under processes understood by the Commissioner. This approach also ensures that disciplinary cases in Cumbria are being dealt with rigorously and fairly, in line with Statutory Guidance and Constabulary policies and procedures, under processes understood by the Ethics and Integrity Panel.

If a series of cases (on their facts and outcomes) together indicated a consistent area for concern, then the Commissioner may review them in conjunction with the Constabulary and other stakeholders to see whether wider lessons emerge.

## **Cumbria Fire and Rescue Service**

The Police and Crime Act 2017 introduced opportunities for Police and Crime Commissioners to take on responsibility for fire and rescue governance in their area where a local business case was made. On 3<sup>rd</sup> August 2022 the then Home Secretary approved the commissioner's business case. In November 2022 a statutory instrument was laid in Parliament which established the Cumbria Commissioner Fire and Rescue Authority.

From 1 April 2023 the Commissioner also became responsible for the governance of Cumbria Fire and Rescue Service. The Commissioner also has employment responsibility for employees within the Service.

Cumbria Fire and Rescue Service have a suite of HR policies with regards to managing staff, conduct, complaints or grievances available to be viewed via their website.

# Confidentiality of Data & Information

Any data or information provided to the Panel as either part of their regular meeting papers or dip sample sessions must be treated in the strictest of confidence.

Where all scrutiny records are reviewed all panel members must adhere to disclosure, data protection and General Data Protection Regulations (GDPR) protocols and guidance. In addition, it is important that steps are taken to protect against inappropriate/unlawful disclosure of personal information, recognising that material may remain sensitive even where it has been redacted

## Case Sample Procedure

The procedure below describes the processes by which cases and files are to be reviewed for Cumbria Constabulary and also Cumbria Fire and Rescue Service.

The Ethics and Integrity Panel (the Panel), accompanied by a member of staff from the Office of the Police, Fire and Crime Commissioner (OPFCC), will attend sessions by arrangement with Cumbria Constabulary or Cumbria Fire and Rescue Service no more than once every quarter and no less than once on a six-monthly basis to carry out dip samples on the agreed areas of business.

### Cumbria Constabulary

The Office of the Police, Fire and Crime Commissioner and Professional Standards Department Admin Managers are responsible for making arrangements, in line with the Panel's annual work programme.

The Panel will audit process and procedures using agreed checklists as attached (Appendices 1 to 4c). Files will be selected from a list of finalised complaints, provided by the Professional Standards Department to the member of staff at the time of attendance. With regards to finalised Review cases, the OPFCC will provide the Panel with a list of finalised cases from which they will select ones to inspect.

### **Number or proportion of completed complaint files to be inspected**

It is not practical to inspect all files completed during the six months preceding the case sampling session. Instead, an agreed number of completed files from the preceding six months 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 Panel to give appropriate attention to.

The Commissioner reserves the right to increase or decrease that specified number if necessary, in consultation with the Constabulary. The frequency of attendances to the PSD Offices will also influence the number of files that 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 outside of Schedule 3 (Service Recovery) within area **8 (eight)**
2. The number of dip sampled files chosen from those concluded outside of Schedule 3 (Service Recovery) within PSD **8 (eight)**
3. The number of dip sampled files chosen from those concluded by way of Recorded – No Investigation **8 (eight)**
4. The number of dip sampled files chosen from those concluded by way of Recorded – Investigation **8 (eight)**

[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 Complaint Review files to be inspected**

The IOPC deal with any appeals against complaints which have been Recorded and Investigated, 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 OPFCC will deal with reviews (appeals) resulting from Recorded – No Investigation complaints, dealt with by the Constabulary.

5. The number of review files chosen from those concluded by the OPCC to be inspected at the dip sample session is: **4 (four)**

The Panel will audit process and procedures using pro forma checklists as presented at Appendix 3.

### **Identified Best Practice to be inspected**

When carrying out reviews of complaints, the Panel should note any areas of best practice that are identified during the handling of the complaint. Particular note should be made of how and to whom this best practice has been disseminated to.

### **Constabulary Misconduct files to be inspected**

Complaint and disciplinary files are dealt with by investigators within the Constabulary's Professional Standards Department. The Panel will sample police officer and police staff disciplinary files on a six-monthly basis and no more than once a quarter.

At the case sample session, all closed cases finalised following the previous reporting period will be presented. Given that the number of cases is expected to be small, the Panel are likely to be able to select and inspect all finalised files. The frequency of the case sample sessions may influence the number of files that are sampled during the session.

Closed case files to be examined will include those with outcomes as follows:

- Action short of dismissal
- Dismissal
- Appeal

The Panel will audit process and procedures using pro forma checklists as presented at Appendix 5. The checklists highlight the various stages in the disciplinary process that may give rise to issues of integrity, efficiency and effectiveness or proportionality. This should allow easy identification of areas of concern.

The Constabulary is committed to assisting this process in enhancing trust and confidence in the disciplinary process and there will be no restrictions on access to closed files.

*[NB: In conducting a full examination or 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 be no assessment of the factual issues arising in any case and the Panel will not seek to consider the merits of the case]*

### **Constabulary Grievance Files to be Inspected**

There are a relatively small number of grievance files finalised at any one time during a year.

At the case sample session, all closed cases finalised following the previous reporting period will be presented. Given that the number of cases is expected to be small, there should be no requirement to specify any limitations on the number of cases that are scrutinised. However, should this number increase in the future the Office of the Police and Crime Commissioner reserves the right to increase or decrease the number of files inspected by agreement with the Constabulary. The frequency of the case sample sessions may influence the number of files that are sampled during the session.

Due to the confidential process undertaken by the Grievance procedure names contained within the grievance files may be redacted prior to being provided to the Panel to sample. Closed case files to be examined will include those with outcomes as follows:

- Resolved to satisfaction
- Unresolved
- No Further Action
- Withdrawn



The Panel will audit process and procedures using the pro forma checklist as presented at Appendix 6.

### **Constabulary Vetting Decisions**

On a six-monthly basis the Ethics and Integrity Panel carry out dip samples of the Constabulary's vetting decisions. This is to provide oversight and monitoring of the decision made process, ensuring they are robust. There are four categories for vetting decisions which the Panel will review, these being:

- Passed following consideration by the Vetting Managers
- Passed with a referral
- Refusals
- Appeals

The Panel will audit process and procedures using the pro forma checklist as presented at Appendix 7.

### **Constabulary Use of Stop & Search and Use of Force**

There are a number of other areas of business within the Constabulary which the Ethics and Integrity Panel carry out dip samples for. These include:

- Use of Stop and Search
- Use of Force
- Custody Detention Scrutiny

The above sessions are held on a quarterly basis utilising body worn video and CCTV footage to assist in reviewing randomly selected cases. The Panel will audit process and procedures using the pro forma checklist as presented at Appendices 8 and 9.

### **Custody Detention Scrutiny**

In March 2022 the Government published Inclusive Britain in response to the Commission on Race and Ethnic Disparities (CRED) report. This report made a number of recommendations to deal with racial and ethnic disparities in a balanced way. The Home Office has subsequently developed a national Community Scrutiny Framework with a recommendation to set up Custody Scrutiny Panels. The Ethics and Integrity Panel carries out this role providing assurance to the Commissioner of the Constabulary's compliance with legal duties and use of police powers.

On a quarterly basis the Ethics and Integrity Panel will review elements of the custody process, utilising the availability of CCTV and body worn footage to scrutinise the manner in which powers are used and the quality of police interactions with the public.

The Panel will audit process and procedures using the pro forma checklist as presented at Appendix 10.

## **Cumbria Fire and Rescue Service**

The Office of the Police, Fire and Crime Commissioner (OPFCC) and Cumbria Fire and Rescue HR Manager within the Cumbria Fire and Rescue Service are responsible for making arrangements, in line with the Panel's annual work programme.

### **Number or proportion of completed complaint files to be inspected**

The Panel will audit process and procedures using agreed checklists as within the attached appendices. Files will be selected from a list of finalised complaints, provided by the HR Team to the member of staff at the time of attendance. With regards to finalised Review cases, the OPFCC will provide the Panel with a list of finalised cases from which they will select ones to inspect.

*[NB: In conducting a full examination or 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 be no assessment of the factual issues arising in any case and the Panel will not seek to consider the merits of the case]*

### **Fire Complaint and Disciplinary files to be inspected**

Complaint and disciplinary files are dealt with by the HR Team within Cumbria Fire and Rescue Service. The Panel will sample employee disciplinary files on a six-monthly basis and no more than once a quarter.

At the case sample session, all closed cases finalised following the previous reporting period will be presented. Given that the number of cases is expected to be small, the Panel are likely to be able to select and inspect all finalised files. The frequency of the case sample sessions may influence the number of files that are sampled during the session.

Closed case files to be examined will include those with outcomes as follows:

- Informal resolution
- Action short of dismissal
- Dismissal
- Appeal

The Panel will audit process and procedures using pro forma checklists as presented within the appendices. The checklists highlight the various stages in the disciplinary process that may give rise to issues of integrity, efficiency and effectiveness or proportionality. This should allow easy identification of areas of concern.

### **Identified Best Practice to be inspected**

When carrying out reviews of complaints, the Panel should note any areas of best practice that are identified during the handling of the complaint. Particular note should be made of how and to whom this best practice has been disseminated to.

### **Fire Grievance files to be inspected**

There are a relatively small number of grievance files finalised at any one time during a year.

At the case sample session, all closed cases finalised following the previous reporting period will be presented. Given that the number of cases is expected to be small, there should be no requirement to specify any limitations on the number of cases that are scrutinised. However, should this number increase in the future the OPFCC reserves the right to increase or decrease the number of files inspected by agreement with the Fire and Rescue Service. The frequency of the case sample sessions may influence the number of files that are sampled during the session.

Due to the confidential process undertaken by the Grievance procedure names contained within the grievance files may be redacted prior to being provided to the Panel to sample. Closed case files to be examined will include those with outcomes as follows:

- Resolved to satisfaction
- Unresolved
- No Further Action
- Withdrawn

The Panel will audit process and procedures using the pro forma checklist as presented at Appendix xx.

### **Fire Disclosure and Barring Service (DBS) Checks to be inspected**

On a six-monthly basis the Ethics and Integrity Panel carry out dip samples of the Fire & Rescue Service's Disclosure and Barring Service (DBS) checks which have been carried out. This is to provide oversight and monitoring of the decision made process, ensuring they are robust. There are three categories for DBS decisions which the Panel will review, these being:

- Passed
- Passed following risk assessment (where an issue arises as part of the DBS check)
- Refusals (will move into disciplinary proceedings)
- Appeals

The Panel will audit process and procedures using the pro forma checklist .

## Case Sample Outcomes

This protocol represents an understanding agreed between the Commissioner, Cumbria Constabulary and Cumbria Fire and Rescue Service. It is intended to constitute an important limb of the overall scrutiny and public accountability that is delivered by a Police and 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 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 Commissioner provides one important part of the framework of remedies and reassurances available to members of the public in this field. Disciplinary cases against police officers and police staff are a key area where realised or potential impacts on human rights, race, or other equality issues can be revealed.

This protocol is intended to help:

- provide public reassurance about the integrity, effectiveness and efficiency of policing and fire service provision in Cumbria;
- assess the risk of policing impacting adversely and disproportionately on human rights; or on 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 or fire 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.

## Identified Issues or Concerns

When carrying out their inspections, the Panel members undertake this task on behalf of the Police, Fire and Crime Commissioner. They will ask any questions or raise concerns they may have about the processes or procedures to the member of staff allocated to them. These can if necessary be escalated to the Department Head to invite further explanations. They will also draw them to the attention of the Deputy Chief Constable at the Panel meeting where the outcomes and findings are discussed.

The Commissioner will be notified by way of a written report. Where serious issues are identified the Commissioner may then wish to raise the matter with the Deputy Chief

Constable or Chief Fire Officer or Deputy Chief Fire Officer who will respond, as appropriate, with advice and explanations. In addition to the above, the member of OPFCC 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, for the processes followed for the different areas sampled:

1. Checklist for Case Sampling Complaint, Misconduct and Grievance Files
2. Constabulary Public Complaints Process map (flow chart)
3. Constabulary Public Complaints:
  - a. Non-Recorded, Dealt with Outside Schedule 3 – Service Recovery
  - b. Recorded – No Investigation
  - c. Recorded – Investigation
4. OPFCC Complaint Review Files
5. Constabulary Police Officer and Police Staff Misconduct Files
6. Constabulary Grievance Files.
7. Constabulary Vetting Decisions
8. Constabulary Stop and Search
9. Constabulary Use of Force
10. Constabulary Custody Detention Scrutiny
  
11. Fire and Rescue Service – Complaint files
12. Fire and Rescue Service – Misconduct files
13. Fire and Rescue Service – Grievance cases
14. Fire and Rescue Service – Disclosure and Barring Service (DBS) checks