

## Guidance on the Handling of Complaints Relating to the Direction and Control of a Police Force by a Chief Officer

The Secretary of State is grateful for the significant contribution made to writing this guidance by the Association of Police Authorities, the Association of Chief Police Officers, Her Majesty's Inspectorate of Constabulary and the Independent Police Complaints Commission.

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## **Authority of this Guidance**

1. This guidance is issued under Section 14 of the Police Reform Act 2002, which provides a power for the Secretary of State to issue guidance to chief officers and police authorities on the handling of complaints relating to the direction and control of a police force by a chief officer.
2. Section 14 also places a duty on a chief officer and a police authority to have regard to this guidance when handling such complaints.

## **Purpose of this Guidance**

3. Parliament has conventionally distinguished between a complaint about the conduct of a police officer and a complaint relating to the direction and control of a force by a chief officer.
4. The Government is clear that a complaint about direction and control can often be significant and, whilst rightly relating to the operational discretion of the Chief Officer, requires a meaningful and timely response. Many forces already have procedures in place for handling such complaints. Nevertheless this guidance is intended to ensure consistency in the way forces respond to such complaints and to give members of the public confidence that their complaint will be responded to in a timely and appropriate manner. It is intended to be supportive of the work of police forces and police authorities.
5. The requirement for each police force is to develop a procedure for the effective and efficient handling of complaints on direction and control and to write its own local guidance. The purpose of this guidance is to provide forces with both a structure and minimum requirements for their own local procedure. It is not, in itself, a procedure for handling these complaints. Where necessary, forces should review their procedures to ensure they comply with this guidance.

## **Scope of a Local Procedure**

6. A member of the public is entitled to ask questions about the way in which policing is delivered locally and if dissatisfied to complain about that service. For the purpose of this guidance, a member of the public is not taken to mean a person serving with the local police force i.e. a police officer, a member of police staff, a member of the Special Constabulary, volunteer or contractor nor anyone acting on his or her behalf in that capacity.
7. A complaint can be about any matter to do with the delivery of the policing service in a police area. However, this does not include matters to do with:

- internal management and organisational support , practices and procedures (see paragraph 17); or
- General functions of a police authority.

### **Definition of Direction and Control**

8. Direction and control of a police force is taken to be the legitimate independent operational responsibility and discretion that is held by a chief officer. For the purpose of this guidance, a complaint that relates to the direction and control of a force by a chief officer is one that relates to:-

- operational policing policies (where there is no issue of conduct)
- organisational decisions
- general policing standards in the force
- operational management decisions (where there is no issue of conduct)

9. Direction and control of a police force by a chief officer shall be taken to include the direction and control by any person serving under the chief officer who operates by virtue of a formal delegated authority from the chief officer, either directly or indirectly. For example, a Basic Command Unit (BCU) commander will have delegated authority and prescribed discretion from the chief officer to provide a policing service in his or her BCU. He or she may develop local policies and operating procedures within the overall force framework. Such local policies and operating procedures are regarded as direction and control of a police force by a chief officer.

### **Establishing a Local Procedure**

10. A chief officer should agree with his or her police authority a procedure for handling complaints about direction and control of the force. In establishing (or reviewing) a procedure, a chief officer should ensure it is responsive to the needs of complainants, proportionate in the handling of the complaint and it is as open and transparent as the maintenance of effective policing will allow. Also, the procedure should be flexible so that complaints can be dealt with at the lowest appropriate level, with an emphasis on early resolution.

11. The guidance on the local procedure should be in writing and it should include appropriate guidance for all those who are likely to use it. That guidance should include, as a minimum, sections on:

- Responsibilities – (see paragraphs 21-22)
- Categorising a complaint – (see paragraphs 12-15)
- Recording a complaint – (see paragraphs 16- 20)

- Handling –The guidance should include how direction and control complaints will be allocated and handled within the force. The local guidance may provide the opportunity for complaints to be resolved immediately. It should include how to identify and promulgate lessons to be learned.
- Openness/Keeping the complainant informed – Local guidance should set out minimum standards for keeping the complainant informed about progress of the complaint. There should be a presumption towards openness but any decision on disclosure of information should be subject to a sensitivity test. Forces should also be aware of the requirements and their responsibilities under the Freedom of Information Act.
- Performance standards – Chief Officers and police authorities should ensure the local procedure contains minimum standards of performance in regards to both quality and timeliness of response. The local direction and control procedure should include a process to monitor the standards of performance achieved, and identify any lessons to be learned.

### **Categorising a Complaint**

12. Categorising a complaint needs to be well articulated in local guidance because it is crucial to the way the complaint is to be handled and, indeed, crucial to the oversight function of the chief officer and the police authority. In paragraph 8, above, it was stated that a complaint that relates to the direction and control of a force by a chief officer is one that relates to one of the following: operational policing policies, organisational decisions, general standards in the force and operational management decisions. It may be that these form the categories under which complaints are recorded and handled but this should not preclude the further breakdown of categories, if a chief officer and police authority requires it.

13. In addition to direction and control complaints, a police force will receive complaints to do with conduct of a member of staff, management and organisational support and police authority affairs. It is envisaged that almost every complaint will fall under one of these four general areas and everyone should be clear about how each should be handled. It is not intended that the local guidance on direction and control complaints should include guidance on handling these other complaints. Instead, the local guidance on direction and control complaints should simply inform the reader to whom other complaints should be directed.

Conduct of a member of staff: Any complaint wholly or partly to do with conduct must be recorded and handled under the provisions of Part 2 of the Police Reform Act 2002. The IPCC will provide guidance on handling this type of complaint. Complaints which are partly to do with conduct and partly to do with direction and control must also be recorded under the direction and control procedure. However, the guidance must be very clear about how such complaints should be handled. It is likely that the IPCC guidance will cover such complaints. Local guidance should make clear that a complaint about conduct which has been wrongly categorised as direction and control may be subject of an appeal to the IPCC and the IPCC may direct the chief officer to record it under Part 2 of the Police Reform Act 2002.

Management and organisational support: These are to do with support functions; for example, personnel, finance, procurement, common services (eg stationery, catering, postal services ....), etc. Complaints on these matters are not considered to be direction and control for the purpose of this guidance. It is for the chief officer to decide how such complaints are dealt with.

Police Authority affairs: Any complaint about the conduct of a member of the police authority or a complaint about police authority affairs should be directed to the clerk of the police authority. Such complaints are not considered to be direction control for the purpose of this guidance.

14. Local guidance should explain how to identify complaints that are not about direction and control and it should explain the advice to be given to a complainant on how to make his or her complaint. The key objective here must be to ensure that the complainant has full confidence in the police service to deal effectively and efficiently with the complaint. Failure at this stage will not only dent that confidence but it may also attract another complaint.

15. In some cases, it may be difficult to determine if a complaint is about direction and control or about conduct. Where there is this difficulty, a force should proceed with it as if the complaint is about conduct, until such time as any preliminary inquiries or investigations demonstrate this not to be the case. This is to avoid prejudice to the application of the conduct procedures, should they be later shown to be appropriate.

### **Recording a Complaint**

16. After a complaint has been categorised as direction and control, a decision is required on whether or not it should be recorded.

17. It will be for the chief officer and police authority to agree a policy on the recording of direction and control complaints. There may be legitimate direction and control complaints, which the chief officer will not require to be recorded in the direction and control register. These could include a complaint:

- Where an immediate satisfactory explanation is given to the complainant and where there are no ongoing lessons to be learned or policies that require reviewing;
- which has been dealt with previously and which was made by the same complainant; or
- which is considered to be frivolous, vexatious, anonymous or out of time (for example over 12 months old).

18. A complaint that is to be recorded must be so recorded in a register which will allow information on a complaint or series of complaints to be retrieved effectively and efficiently for the purpose of those who need to manage, oversee or inspect the

local procedure. Therefore, the chief officer should agree the form of the record with his or her police authority.

19. The register should contain information on each recorded complaint but the nature of that information must be a matter for each force and the police authority. However, for the information to prove useful, it should include:

- Details of the complaint (dates, classification, summary of the substance, etc)
- Details of the complainant (name, address, gender, ethnicity, age, etc if known)
- Outcomes (i.e.response to the complaint, complainant satisfaction, performance achieved, lessons, etc)

20. Other sections in local guidance may include:

- Purpose and Objectives – it is important for all staff to understand the benefits of the local system. Therefore, the guidance could explain the importance attached by the chief officer and the police authority to public confidence in their police service and the contribution made by the effective and efficient handling of direction and control complaints.
- Monitoring and oversight – if there is to be a central control, it may be helpful for all staff dealing with complaints to understand the arrangements and what will be expected of them in assisting with those arrangements. The guidance should clearly set out the division of responsibility between any central control and staff dealing with complaints.
- Training – the local guidance could include force arrangements for training staff who will be dealing with the complaints; or it could include specimen complaints and how they should be handled.
- HMIC role – HMIC will want to include in its normal force inspection the adequacy of a force's procedure for handling direction and control complaints and will want to scrutinise the effectiveness of both its operation and its oversight function. Guidance could, therefore, have a reference to the inspection role of HMIC in direction and control complaints.
- IPCC role – the IPCC has no role in the handling of direction and control complaints. However, as guardians of the complaints system for the conduct of police officers and police staff, it will be concerned about a complaint against conduct that has been wrongly categorised as direction and control. The IPCC will want to be assured that a local procedure contains the necessary checks to both avoid and correct a wrongly categorised complaint.

## **Responsibilities**

21. Issues concerning direction and control of a force, by their nature, have the potential to have an impact on a force's efficiency and effectiveness. A police authority has statutory responsibility for the efficiency and effectiveness of its police force and it is also accountable to local communities for the delivery of policing. That is why a police authority has a key role in overseeing and scrutinising force performance in handling complaints about direction and control. The chief officer and police authority should agree the level and extent of oversight arrangements for direction and control complaints. They should also agree the data, format and frequency for the provision of reports to assist them in their oversight roles.

22. A chief officer may want to delegate responsibility for the management of the local procedure to an appropriate senior person. That senior person will want to ensure that suitable arrangements are in place to co-ordinate and manage the recording, handling and reporting of complaints across the force. The local guidance should make clear the roles and responsibilities of all those involved in the process, including those who will eventually deal with the complaints.

### **Commencement**

23. The guidance comes into immediate effect. It will be reviewed after one year to take into account operational experience. Therefore, comments on its application should be sent in writing to:

Home Office  
Police Integrity and Community Confidence Team  
Police Leadership and Powers Unit  
2<sup>nd</sup> Floor  
Allington Towers  
Allington Street  
London  
SW1E 5EB

24. A chief officer should have a formal procedure with local written guidance in place as soon as possible but no later than 1st June 2005.