

# BRITISH TRANSPORT POLICE AUTHORITY

## SENIOR OFFICER COMPLAINTS POLICY



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## ACRONYMS

ACPO	Association of Chief Police Officers
ACPOS	Association of Chief Police Officers Scotland
BTPA	British Transport Police Authority
BTP	British Transport Police
IPCC	Independent Police Complaints Commission
PCCS	Police Complaints Commissioner for Scotland

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# British Transport Police Authority

## Senior Officer Complaints Policy

### 1. Introduction

This policy provides a framework for the recording and investigating of complaints made in relation to the conduct of the Senior Officers of British Transport Police Force. Because the Force provides policing services across Great Britain, from time to time the Authority may be required to refer certain complaints to either the IPCC (for complaints relating to incidents arising in England or Wales) or the Procurator Fiscal (for complaints relating to incidents arising in Scotland); as a result the Authority may need to deal with complaints in slightly different ways depending on the origin of that complaint. This is explained in more detail in section 5.4.5 of this policy.

#### 1.1 Who the policy applies to

This policy sets out how the British Transport Police Authority will record and investigate complaints against the Senior Officers of the British Transport Police. The Senior Officers of the Force are;

- The Chief Constable
- The Deputy Chief Constable
- The Assistant Chief Constables

The Authority can also receive and investigate conduct complaints made against the following staff Members of the Force's Chief Officer Group.

- The Finance Director
- The Human Resources Director

However as these are police staff roles our assessment and investigation of these complaints is carried out in slightly different way. This process is set out in our separate 'Senior Staff Complaints Policy'.

## **1.2 Who can use this policy**

The policy is primarily intended to be used by the Authority's Chief Executive; the Deputy Chief Executive and Chair of the Professional Standards Committee.

The policy is also intended to provide further clarity for members of the public about the process of making a complaint against a senior officer and how the Authority will consider and, where appropriate, investigate that complaint.

## **2. Relationship to other policies and documents**

This policy complements, and may be read in conjunction with, the following documents:

- BTPA 'How to Complain' leaflet
- BTP Complaints and Discipline Policy
- BTP Grievance Procedure
- IPCC 'Making the new police complaints system work better' Statutory Guidance 2005 (currently under review)
- Police Complaints Commissioner for Scotland: A Guide to the Role of the Police Complaints Commissioner for Scotland 2007
- Police Reform Act 2002
- The British Transport Police (Conduct) Regulations 2008
- The British Transport Police (Complaints and Misconduct) (Scotland) Regulations 2008
- The British Transport Police (Complaints and Misconduct) Regulations 2008
- The British Transport Police (Complaints and Misconduct) Regulations 2004
- British Transport Police Appeal Tribunal Regulations 2008

## **3. Responsibilities under the Policy**

### **3.1 The Authority**

Police Authorities have a number of responsibilities arising from Section 15 of the Police Reform Act 2002 and Section 41 of the Police, Public Order and Criminal Justice Act (Scotland) 2006 in relation to dealing with complaints. These include a specific responsibility to act as the 'appropriate authority' in recording and investigating complaints against ACPO rank Officers.

Police authorities are also expected to ensure that they have procedures in place for;

- Recording complaints or conduct matters about ACPO ranks
- Distinguishing complaints that are solely about direction and control and dealing with them appropriately
- Identifying, recording and considering conduct matters arising from civil claims
- Identifying when a complaint or misconduct matter should be referred to the IPCC or the Procurator Fiscal

This policy sets out the processes the Authority will follow to meet its specific responsibilities in relation to handling complaints against ACPO rank officers.

### **3.2 The Chief Executive**

The Chief Executive of the Police Authority will be the first point of contact for receiving and recording complaints against ACPO rank officers. The Chief Executive will determine whether the Authority is the appropriate authority to deal with an individual complaint; and if it is not, will forward the complaint to the relevant appropriate authority and will advise the person making the complaint of the action taken. Administration of the complaints process will be supported by the Authority Secretariat team.

### **3.3 The Chair of the Professional Standards Committee**

The Chair of the Authority's Professional Standards Committee will lead on oversight of all complaints and will work jointly with the Chief Executive in considering and progressing complaints against ACPO rank officers. Administration of the complaints process will be supported by the Authority Secretariat team.

## **4. Making a complaint**

### **4.1 Who can make a complaint**

A complaint about the conduct of a person serving with the police can be made by a member of the public who:

- Alleges that the conduct was directed at them
- Alleges that they have been adversely affected by the conduct even if it was not directed at them
- Claims that they witnessed the conduct

A complaint can also be made by someone acting on behalf of any of the above persons, providing they have given their written consent for the representative to act.

The Authority is only able to deal with conduct related complaints from members of the public. Serving officers and police staff must raise their concerns about the conduct of ACPO rank officers (except the rank of the Chief Constable which should be referred to the Authority) via the BTP grievance procedure.

### **4.2 What complaints we can investigate**

The Authority can deal with complaints about the conduct of senior officers of the British Transport Police Force who occupy the rank of Assistant Chief Constable or above. This includes the following posts;

- Chief Constable
- Deputy Chief Constable
- Assistant Chief Constable
- Force Human Resources Director (see our separate senior Police Staff Policy)
- Force Finance Director (see our separate senior Police Staff Policy)

Complaints against officers of other ranks and police staff should be made directly to BTP via its Professional Standards Department; contact details are provided at the end of this policy. Any such complaints received by the Authority will be acknowledged and passed to the Force for investigation.

### **4.3 What is a conduct complaint**

A conduct complaint relates to an allegation that a person serving with the police may have committed a criminal offence or may have behaved in a manner which would justify the bringing of disciplinary proceedings. Typically this may involve an allegation of inappropriate language or behaviour or an inappropriate action or failure to take action.

The Authority does not deal with complaints about the direction and control of BTP. The scope and nature of direction and control complaints are set out in detail in the Home Office Circular 19/2005; in summary though this document suggests that such a complaint would be one related to;

- Operational policing issues where there is no issue of conduct
- Organisational decisions
- General policing standards
- Operational management decisions

Complaints relating to these matters should be sent directly to Professional Standards at BTP.

### **4.4 How to make a complaint**

There are several ways to make a complaint about an ACPO rank officer to the Authority; the Authority's 'How to Complain' leaflet sets out this process for members of public.

The Authority encourages complaints about ACPO rank officers to be made by letter. However, there may be circumstances where it is necessary for the complainant to make a complaint by email or telephone and the Secretariat will offer guidance on when this might be appropriate.

In the event that allegations concerning an ACPO rank officer are received by the Professional Standards Department at the BTP these will be referred directly to the Authority as the appropriate authority.



## 5. How we will respond

### 5.1 Non-recording of complaints

In certain circumstances the Authority does not have a duty record to complaints, as such, the Authority will not record a complaint against an officer where it;

- Is not about an ACPO rank officer
- Has been made by a person serving with the Force
- Is already the subject of criminal proceedings
- Is solely about direction and control
- Has been withdrawn
- Is already the subject or has been the subject of a complaint

A complainant has the right to appeal to the IPCC against our decision not to record a complaint originating in England and Wales. An appeal must be made within 28 days of receiving notice that the complaint has not been recorded.

### 5.2 Acknowledging your complaint

All complaints made to the Authority will be logged within 3 days of receipt and acknowledged in writing (or via alternative means when appropriate) within 5 days of receipt.

A complaint will be logged and acknowledged but not recorded by the Authority if it meets one of the criteria set out in 5.1 above. Where a complaint relates to a non-ACPO rank officer or a direction & control issue the complaint will be logged by the Authority and then passed to BTP Professional Standards.

All other complaints will be recorded by the Authority and the following information will be forwarded to the person making the complaint:

- A confirmation of the details of the complaint received
- How the Authority intends to deal with the complaint.
- The likely timeframe for resolution
- Any further information required to progress the complaint

The Authority will also notify the Force's Professional Standards Department that a complaint against a senior officer has been received and will notify the person being complained about in writing. The Authority will not involve the person who has been complained about in the handling of any subsequent investigation into the complaint.

### **5.3 Initial assessment of the complaint**

The Chief Executive, in collaboration with the Chair of the Professional Standards Committee, will carry out the initial assessment of the complaint to clarify the following;

- The exact nature of the complaint
- Whether the complaint is suitable for investigation by the Authority
- The expectations of the complainant
- Whether the complaint requires referral to the IPCC (for incidents arising in England or Wales) or the Procurator Fiscal (for incidents arising in Scotland)
- What the most appropriate course of action is to investigate and resolve the complaint

### **5.4 Next steps**

#### **5.4.1 Investigation by the Authority**

Where the Authority determines it is the appropriate authority to deal with a complaint, the Chief Executive and Chair of the Professional Standards Committee will consider the most appropriate course of action in the particular circumstances of each case.

During the process of investigation the Authority will need to consider the following;

- How the complaint can best be resolved, this may be via local resolution, a formal investigation or a dispensation
- Whether the complaint requires referral in part to the Force (see 5.2 above)
- Whether the complaint requires the suspension of the officer complained about

The decision to suspend may only be taken by the Chair of the Authority after consultation with the Chief Executive of the Authority and the Chair of the Professional Standards Committee. The Authority will not suspend the officer unless it appears that one of the following conditions is satisfied:

- That the effective investigation of the matter may be prejudiced unless the officer concerned is suspended
- That the public interest, having regard to the nature of the complaint and any other relevant considerations, requires that they should be suspended

Once a course of action has been agreed, the Authority will write to the complainant to advise them of their decision and the arrangements for keeping the complainant informed of progress.

### **5.4.3 Referral to the IPCC**

The Authority will refer complaints against Senior Officers arising in England and Wales to the IPCC where any of the following allegations are involved:

- Serious assault or serious sexual assault
- Serious corruption
- Criminal offence or other behaviour aggravated by discriminatory behaviour
- Serious arrestable offences

The Authority may also refer complaints to the IPCC if there are exceptional circumstances that may have a significant impact on public confidence or where there are other serious concerns. When a complaint is referred to the IPCC, the IPCC will determine the method of investigation.

Where a complaint is referred to the IPCC the complainant will be advised of this decision in writing.

### **5.4.4 Referral to the Procurator Fiscal**

The Authority is required to refer complaints relating to alleged criminal conduct by an ACPO rank officer in Scotland to the Procurator Fiscal<sup>1</sup>. On referral to the Procurator Fiscal the Police Authority will continue its own investigation under the direction of the Procurator Fiscal until such time as it is advised that the alleged criminal matter has been fully investigated and resolved.

### **5.4.5 Cross border issues**

With the majority of complaints it will be clear whether the matter should be investigated under the system set up for England and Wales or under the system set up for Scotland. On the rare occasion when there may be some uncertainty, the Authority will carefully consider the details of the complaint and the circumstances surrounding it and will decide an appropriate approach based on the specifics of the individual case.

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<sup>1</sup> Guidelines by the Lord Advocate on the Investigation of Complaints Against the Police

## **6. Keeping the complainant informed**

The Authority will keep complainants informed of the progress made in relation to their complaint. The key points of communication are:

- Acknowledgement of the original complaint within 3 working days
- Initial decision of how complaint will be progressed within 10 working days
- On a monthly basis inform the complainant of the progress of the ongoing investigation.
- The final outcome of the investigation

The Authority will correspond with complainants in writing rather than by e-mail or telephone; however where an alternative method of communication is requested for accessibility reasons the Authority will make every reasonable effort to meet this request.

## **7. Repetitious or vexatious requests**

When the Authority considers a complaint to be repetitious or vexatious it may advise the complainant that it will take no further action.

A repetitious complaint is one which:

- Is substantially the same as a previous complaint, or conduct matter or;
- Contains no new allegations which significantly affect the case or;
- Contains no new evidence to support the complaint

A vexatious complaint will be a complaint which is;

- Without foundation
- Which is intended, or tends, to vex, worry, annoy or embarrass.

## **8. Appeals**

### **8.1 England and Wales**

A complainant may appeal to the IPCC against the Authority's decision not to record a complaint or against the outcome of a complaint that has been investigated locally by BTPA or has been supervised by the IPCC. Appeals must be made within 28 days directly to the IPCC

Where the investigation of a complaint has been carried out independently or has been managed by the IPCC there is no right of appeal

There is no right of appeal against the outcome of the local resolution process however a complainant does have the right to appeal to the IPCC if they did not agree to the local resolution process or the process was not carried out in the agreed manner. Appeals must be made within 28 days of the occurrence of what the complainant has alleged has gone wrong with the Local Resolution process.

### **8.2 Scotland**

A complainant may request a review of the handling of a complaint about police conduct by the Police Complaints Commissioner for Scotland; however the PCCS is unable to review the handling of complaints involving allegations of criminal conduct which should be directed to the Crown Office and the Procurator Fiscal Service.

There is currently no time limit for requesting a review from the PCCS though the original investigating body should have completed its investigation.

## **9. Reviewing this Policy**

The policy will be regularly reviewed by the Authority' Secretariat.

## **10. Contact Details**

Complaints against Senior Officers (ACPO rank) can be made to:

### **Chief Executive & Clerk**

British Transport Police Authority  
5<sup>th</sup> Floor North  
The Forum  
74-80 Camden Street  
London  
NW1 0EG  
Tel: 020 7383 0259

Complaints against officers of other ranks should be made to:

### **Head of Professional Standards**

British Transport Police  
FHQ  
25 Camden Road  
London  
NW1 9LN  
Tel: 020 7830 8828

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## Appendix A: Senior officer complaints process

[Insert flow chart if useful]

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