

BRITISH TRANSPORT POLICE AUTHORITY

SENIOR BTP STAFF COMPLAINTS POLICY



Author	Sam Elvy
Date approved	
Date last reviewed	
Date of next review	
Reference number	004/09
Protective marking	Not Protectively Marked
Initial EIA completed	
Full EIA completed	

ACRONYMS	3
1. INTRODUCTION	4
1.1 WHO THE POLICY APPLIES TO	4
1.2 WHO CAN USE THIS POLICY	5
2. RELATIONSHIP TO OTHER POLICIES AND DOCUMENTS	5
3. RESPONSIBILITIES UNDER THE POLICY	6
3.1 THE AUTHORITY.....	6
3.2 THE CHIEF EXECUTIVE	6
3.3 THE CHAIR OF THE PROFESSIONAL STANDARDS COMMITTEE	7
4. MAKING A COMPLAINT	7
4.1 WHO CAN MAKE A COMPLAINT	7
4.2 WHAT COMPLAINTS WE CAN INVESTIGATE	7
4.3 WHAT IS A CONDUCT COMPLAINT.....	8
4.4 HOW TO MAKE A COMPLAINT	8
5. HOW WE WILL RESPOND	9
5.1 NON-RECORDING OF COMPLAINTS	9
5.2 ACKNOWLEDGING YOUR COMPLAINT.....	9
5.3 INITIAL ASSESSMENT OF THE COMPLAINT	10
5.4 NEXT STEPS	10
5.4.1 <i>Investigation by the Authority</i>	10
5.4.2 <i>Referral to the Force</i>	Error! Bookmark not defined.
5.4.3 <i>Referral to the IPCC</i>	11
5.4.4 <i>Referral to the Procurator Fiscal</i>	11
5.4.5 <i>Cross border issues</i>	11
6. KEEPING THE COMPLAINANT INFORMED	12
7. REPETITIOUS OR VEXATIOUS REQUESTS	12
8. APPEALS	13
8.1 <i>England and Wales</i>	13
8.2 SCOTLAND	13
9. MONITORING & REVIEWING THIS POLICY	13
APPENDIX A: SENIOR STAFF COMPLAINTS PROCESS	15

ACRONYMS

BTPA	British Transport Police Authority
BTP	British Transport Police
IPCC	Independent Police Complaints Commission
PCCS	Police Complaints Commissioner for Scotland
PF	Procurator Fiscal

DRAFT 15.10

British Transport Police Authority: BTP Senior Staff 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 staff of the 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 sections 5.4.3 and 5.4.4 of this policy.

1.1 Who the policy applies to

This policy sets out how the British Transport Police Authority (BTPA) will record and investigate complaints against the senior staff of the British Transport Police. For the purposes of this policy senior staff of the Force are;

- The Finance Director
- The Human Resources Director

The Authority can also receive and investigate conduct complaints made against the following senior officers.

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

However as these are police officer roles our assessment and investigation of these complaints is carried out in slightly different way. This process is set out in our separate 'Senior Officer 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 clarity for members of the public about the process of making a complaint against a senior staff member 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 Handling of Complaints from the Public Policy 2008
- BTP Handling of Conduct Complaints Standard Operating Procedure 2008
- BTP Grievance Resolution Standard Operating 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
- BTP Discipline (Police Staff) Standard Operating Procedure

Comment [SJ1]: Insert and further relevant staff discipline rules - awaiting confirmation from Linda S at BTP

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. In consultation with BTP it has been agreed that BTPA will also act as the appropriate authority for dealing with complaints against police staff of an ACPO rank equivalent as set out in 1.1 above.

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

- 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

BTPA also has a procedure in place for recording complaints or conduct matters about police staff of ACPO equivalent ranks

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

3.2 The Chief Executive

The Chief Executive of the Police Authority will be the first point of contact for receiving and complaints against senior staff. 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 will work jointly with the Chief Executive in considering and progressing complaints against senior staff of the Force. 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 senior staff conduct 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 senior police staff via the BTP grievance resolution procedure.

4.2 What complaints we can investigate

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

- Force Human Resources Director
- Force Finance Director

Complaints against other 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 senior staff to the Authority; the Authority's 'How to Complain' leaflet sets out this process for members of public.

The Authority encourages complaints about senior police staff 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.

5. How we will respond

5.1 Non-recording of complaints

In certain circumstances the Authority does not have a duty record to complaints. In summary the Authority will not record a complaint against an senior staff member where it;

- Is not about a member of senior police staff
- Has been made by a person serving with or employed by the Force
- Is already the subject of criminal proceedings
- Is solely about direction and control
- Has been withdrawn
- The complaint 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. This should be done 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 non-senior staff 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 staff member 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.

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. The Authority is statutorily required to obtain and preserve evidence in relation to any complaint which it investigates.

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 referral to the IPCC or the Procurator Fiscal (see 5.3 above)
- Whether the complaint requires the suspension of the staff member 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 staff member 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. Such a decision would be taken in collaboration with the Chief Constable.

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.

5.4.2 Referral to the IPCC

The Authority will make refer of complaints against senior staff arising in England and Wales 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.

5.4.3 Referral to the Procurator Fiscal

The Authority is required to refer complaints relating to alleged criminal conduct by civilian staff in Scotland to the Procurator Fiscal¹. On referral to the Procurator Fiscal the Police Authority will suspend its own investigation until such time as it is advised that the alleged criminal matter has been fully investigated and resolved.

5.4.4 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

¹ Guidelines by the Lord Advocate on the Investigation of Complaints Against the Police

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.

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.

It should be noted that for a complaint to be vexatious it does not have to be repetitious.

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 the conduct of a member of police staff by the PCCS; 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. Monitoring & reviewing this Policy

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

10. Contact Details

Complaints against senior staff of the BTP as defined in section 1.1 of this policy can be made to:

Chief Executive & Clerk

British Transport Police Authority
5th Floor North
The Forum
74-80 Camden Street
London

NW1 0EG
Tel: 020 7383 0259

Complaints against other staff should be made to:

Head of Professional Standards

British Transport Police
FHQ
25 Camden Road
London
NW1 9LN
Tel: 020 7388 7541

DRAFT 15.10.09

Appendix A: Senior staff complaints process

[Insert flow chart if useful]

DRAFT 15.10.09