

To: All Members of the Cumbria Police and Crime Panel

Dear Member

**Cumbria Police and Crime Panel – Tuesday 19 July 2022**

Further to the agenda for the above meeting please find attached a copy of the agenda item 12 – Update on Complaints which was marked 'to follow'.

Yours sincerely

*L Harker*

**LYNN HARKER**  
**Senior Democratic Services Officer**



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## **CUMBRIA POLICE AND CRIME PANEL**

**Meeting date: 19 July 2022**

**From: Monitoring Officer (Cumbria County Council)**

### **UPDATE ON COMPLAINTS**

#### **1.0 EXECUTIVE SUMMARY**

1.1 *This report advises members of any complaints received in accordance with the Panel's complaints procedure. The report outlines where appropriate, what, if any, action has been taken in respect of the complaints.*

#### **2.0 RECOMMENDATION**

2.1 *Members are asked to note the report.*

#### **3.0 BACKGROUND**

3.1 At the meeting on 15 October 2018 the Panel agreed to adopt a revised complaints procedure to consider non-criminal complaints in relation to the Police and Crime Commissioner or other office holders.

##### **3.2 The Procedure**

3.2.1 As part of the revised procedure, the Monitoring Officer of Cumbria County Council will consider all complaints matters in the initial stages. If the Monitoring Officer cannot broker a resolution, a sub-committee of the Panel should be convened to consider the matter further.

3.2.2 The Panel will receive a report to each meeting detailing the position with all ongoing complaints, and requesting a sub-committee be convened if appropriate.

## **4.0 DETAILS OF COMPLAINTS RECEIVED**

4.1 At the time of the previous meeting of the Panel, advice had been sought but not yet received in respect of two ongoing complaints of which the OPCC's view was that neither were properly within the remit of the Police and Crime Panel. That advice has now been received and is confidential and legally privileged.

The key points were that both complaints related to matters in which the Commissioner had instigated an Independent Review of particular complaints.

### Background legal position

This position arises from the law governing the complaints to the Panel about the Commissioner. That law is: the Police Reform and Social Responsibility Act 2011 ("the 2011 Act") and the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 ("the 2012 Regulations").

Section 31 of the 2011 Act provides: "The Secretary of State may, by regulations, make provision about (a) the making and handling of complaints about the conduct of relevant office holders ("qualifying complaints")...". That section also provides that "the relevant office holders" are, in this context, police and crime commissioners. The 2012 Regulations are made on the authority of this section but it is important to note that the complaints must be about the conduct of relevant office holders.

Regulation 2(1) of the 2012 Regulations defines complaints with reference back to this section: "'complaint' means a qualifying complaint within the meaning of section 31(1)(a) of the 2011 Act".

### Application

Accordingly, where the conduct which is the subject matter is not that of the Police and Crime Commissioner, but that of an Independent Reviewer, it is beyond the legal remit of the Panel.

In the last report there was mention of one anonymous referral that appeared to relate to other matters which was referred to the report author. There was no further action for the Panel on this matter, as it was neither within its remit or something that could have been progressed in any event.

Since the date of the last report, correspondence has been received that due to Officer absence has not been progressed. At the time of writing, there is either no discernible complaint or a complaint that would be within the Panel's remit.

Ben Spencer  
Group Lawyer, Cumbria County Council

*18 July 2022*

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### **APPENDICES**

**None**

### **BACKGROUND PAPERS**

**No background papers**

Contact: Ben Spencer  
E-mail: [ben.spencer@cumbria.gov.uk](mailto:ben.spencer@cumbria.gov.uk)  
Telephone: 07919 297914

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