

Complaints against Police

ABOUT THIS PROCEDURE

This document defines the meaning of complaints against the police and details of how they should be handled in accordance with relevant legislation and guidance. This will provide a guide to those dealing with such complaints to ensure an efficient and proportionate response is provided ,whilst managing the expectations of the public.

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DEPARTMENT RESPONSIBLE	Professional Standards Department
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EXTERNAL PUBLICATION	Yes
COLLEGE OF POLICING APP	There is no specific APP for Complaints against Police but the Professional Standards APP provides supporting Information

How to navigate this document:

You can either:

- Scroll through each page in sequence
- Or click on the tabs on the right hand side to go to a specific section

If you have any questions on this procedure, please see the relevant contact in the [Further Reference](#) section or email the [Policy Unit](#).

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KEY POINTS

This Policy is to be referred to for any Complaints that come to the attention of South Wales Police **after 31st January 2020**. For matters that came to attention prior to this date, please refer to a member of the Professional Standards Department (PSD) for advice and guidance.

Definition

A complaint is any expression of dissatisfaction with a police force that is expressed by, or on behalf of, a member of the public. However, it must be made by a person who meets the definition of a complainant. They must be the person to whom the conduct directly relates, be adversely affected, have witnessed the conduct or is acting on behalf of someone who fits these criteria.

Persons serving with the Police cannot make complaints about their own force, though they are able to raise a grievance in accordance with the Fairness at Work policy, and can raise concerns about behaviour through other means via line managers or other internal reporting methods.

The handling of complaints should be focussed on providing a resolution for the complainant where possible. This could be by providing an explanation, providing an update, offering an apology, signposting to an appropriate process or any other satisfactory resolution.

The way a complaint is dealt with is governed by legislation, mainly schedule 3 of the Police Reform Act 2002.

There are three main ways that complaints can be handled, as outlined in the full procedure. The relevant documents are on the Professional Standards Department intranet pages. These are referred to as:

1) “Outside Schedule 3” – Care and Repair / Service Recovery

For low level matters where there is no evidence of misconduct and the complainant can be provided with a quick satisfactory resolution;

2) Flexible Approach

This is for matters that are recorded by PSD as complaints but there is still no evidence of misconduct. As the term suggests, once recorded, the matter can be dealt with in a number of ways with a view to resolving the matter, in a reasonable and proportionate way, to the satisfaction of the complainant;

3) Investigation

For more serious allegations, where there is an indication of Misconduct, the matter may need to be investigated, as directed by the Detective Inspector at the Professional Standards Department

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ROLES & RESPONSIBILITIES

Policy Lead

The Policy 'Complaints against Police' is owned by the Chief Superintendent, Head of Professional Standards.

Professional Standards Department (PSD)

The PSD are responsible for the overall management of complaints handled by South Wales Police. This includes:

- Appropriate Authority decision making in relation to levels of investigation and outcome decisions
- Investigation of more serious, sensitive and complex matters
- Case management of complaints and liaison with departments and other agencies regarding complaint matters
- Briefing and advising staff and members of the public in relation to the complaints process
- Quality assurance of records relating to complaint matters

BCU/Departmental SPOC

- Overseeing and quality assurance of complaint matters for their area of responsibility
- Ensuring regular updates are provided to interested parties
- Seeking guidance from PSD where necessary

BCU/Departmental Complaint Handler (Normally Sergeant/Inspector or Police staff equivalent)

- Handling/investigation of low level complaint matters in a timely and proportionate manner
- Engagement with complainants and their advocates to build trust and support in the complaint system

Office of the Police and Crime Commissioner

- Oversight and scrutiny for complaint system and review body for some complaint matters

Independent Office of Police Conduct

- Oversight and scrutiny of complaint matters, investigation of most serious, sensitive and complex matters.
- Review body for serious complaint matters

Police Federation and Staff Associations

- Provision of advice and support to officers and staff subject to complaints where appropriate

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FULL PROCEDURE

A complaint against police can be made in writing, by telephone, e mail or any other medium and do not specifically have to use the word 'complaint', since a complaint is now defined as 'any expression of dissatisfaction with a police force'. The person making the complaint must, however, fit the definition of a complainant as outlined earlier in this policy.

Off duty conduct is dealt with separately under the Police Conduct Regulations and should not be dealt with as a complaint unless it is alleged that at the time of the incident the person concerned put themselves on duty, for example, they made it known that they were a serving police employee or showed South Wales Police identification etc.

In summary there are three main ways of dealing with Complaints against Police:

1. **Outside Schedule 3 ("Care and Repair")**

- This is for low level complaints where the matter can be dealt with "there and then" by means of an apology or other explanation as indicated above.
- Where nothing further is required and the matter is resolved to the person's satisfaction, then there is no need for the matter to be logged.
- On other occasions, where more action is required, the matter may need to be logged on Niche by creation of an occurrence which will be picked up by PSD via a saved search or by completion and submission of an [Expression of Dissatisfaction form](#).
- This process is only intended for low level matters that would not justify misconduct or performance proceedings.
- If at any point the complainant states they want the complaint recorded, it must be referred to PSD, even if previous attempts have been made to care and repair / resolve the complaint

2. **By a Flexible Approach**

- Where there is no indication of misconduct but the matter is unsuitable for "care and repair" or the complainant wishes the matter to be formally recorded, the matter will have to be formally recorded at the Professional Standards Department.
- Here, staff and officers will fully research the matter, contact the complainant to seek their views on how the complaint should be handled and, either deal at source in PSD, or allocate to the appropriate department to deal with by way of a Flexible Approach.
- Examples of matters suitable for a Flexible approach would include minor incivility, minor failures of duty, such as failing to keep a victim updated, or genuine mistakes/human error.
- The process is very much designed for putting matters right and focuses on reflecting and learning from mistakes where they have occurred.
- The Flexible approach is not about punishment or recrimination and therefore the service of misconduct notices is not required when asking a member of staff for their explanation/accounts of the alleged events.
- As the name suggests, such complaints can be resolved in a number of ways including giving an apology, an explanation, return of property etc. It is important to engage fully with the complainant to ascertain the true nature of their complaint when dealing with the matter.

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- At the conclusion of the complaint handling, the member of staff appointed to deal with the matter will be required to submit the [Flexible Handling Form](#) to PSD. At the same time, they are required to send a copy to the complainant, after it has been endorsed by a senior manager, ensuring they are provided with a right to review.
- Generally, such complaints will be managed through the Niche tasking process.
- Although it is not a legal requirement that a complainant agrees to the matter being dealt with by a Flexible approach it is good practice to encourage the person to engage and be a part of the process. In the event this is not possible options are to carry out the process regardless (in which case decisions must be robust and capable of standing scrutiny in the event of a review).

3. By Investigation

- Where there is an indication that a person serving with the police may have acted in a way that would justify misconduct proceedings then the matter will need to be investigated.
- Also, matters may need to be investigated where that is deemed to be the most reasonable and proportionate way of handling the complaint. This may be due to its sensitive nature, community impact or other reasons.
- Investigations will either be allocated to a member of PSD or to the relevant BCU/Department (usually via Niche tasking).
- In deciding whether there is an indication of misconduct or criminality, the Appropriate Authority (Detective Inspector/DCI) at PSD will give careful consideration to readily available evidence such as body worn evidence, CCTV and statements.
- Most investigations will be allocated to investigators at PSD but some will be allocated elsewhere with a request to seek advice should any concerns be raised. At the conclusion of an Investigation conducted by a BCU/Department, the Investigator is required to submit a [PSD 6](#) to PSD.
- Again, such matters are generally dealt with via the Niche tasking process.
- Investigations conducted by PSD will generally be reported on an internal template.
- It should be remembered that only a small minority of complaints result in any formal misconduct or performance processes.

There is further guidance available on the PSD intranet page, especially in relation to which forms and process are required. In particular, guidance is provided on which forms to use in which circumstances.

NB- Whether the matter is to be dealt with as a Flexible approach or by Investigation, it is essential that it is dealt with in a reasonable and proportionate manner. Therefore, a balance needs to be found between the attention paid in providing a resolution and the amount of time and resources that are used. This will depend on the seriousness and sensitivity of the complaint but not all matters will require a detailed and exhaustive investigation. The concepts of reasonableness and proportionality are woven throughout the complaint legislation.

Recording and Administration

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Complaints received at the Public Service Centre will be subject to THRIVE assessment and graded accordingly. In the majority of circumstances, where there is no immediate risk they will be subject to creation of a Niche Occurrence (Type AD5). If the Incident Resolution Officer is unable to resolve the matter at the first point of contact then the Niche occurrence is tasked to the Incident Resolution Team (IRT) at the PSC. These officers triage the complaints and attempt to deal with low level matters by “care and repair”. Where they are unsuccessful or the complaint is of a more serious nature, the complaint is recorded at PSD. Staff at the IRT use the following process:

[IRT Complaint Process](#)

Other complaints are received at PSD by means of letter, e mail or direct referral from the Independent Office of Police Conduct (IOPC).

All matters received at PSD are reviewed at the Intake and Assessment Unit where contact is made with the complainant to seek their views (if not already undertaken by the Incident Resolution Team). Decisions are then made by the PSD supervisors/managers, as to the most appropriate person to handle the complaint which is normally allocated and tracked via Niche.

Vulnerability

During the assessment of any complaint matters, staff at the Intake and Assessment Unit are also required to seek to address any vulnerability issues by referral to Victim Services, for example. In addition, the Hate Crime policy is to be followed should any hate incidents be received by means of a complaint.

Decisions and Outcomes

At the conclusion of the handling of a complaint, the handler/investigator will be required to make a determination as to whether the service provided by the police was acceptable, not acceptable or whether they are unable to determine. This reiterates the fact that most complaints relate to a policing service rather than individual conduct. Complaint handlers are encouraged to make a balanced decision in making this determination. Where the service provided is determined to be unacceptable then an apology should be offered as well as an explanation and an outcome to attempt to rectify the matter.

Where individual staff are found to have provided a poor service then consideration should be given to using reflective practice techniques with officers and staff to improve standards and such actions should be communicated to the complainant. Unsatisfactory Performance/Capability Procedures should be considered where appropriate, along with the Reflective Practice Review Process. Where such processes are being considered then the matter should be discussed with PSD.

PSD investigations, where Misconduct is being investigated, will also be required to determine whether there is a case to answer or no case to answer for misconduct.

Review Rights

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- It should be noted that from the point the matter is formally recorded by PSD the complainant will have statutory rights of review against the handling/investigation outcome. Therefore it is essential to make every effort to resolve matters with good will and in a reasonable and proportionate manner.
- The majority of complaints dealt with by BCUs will have a right to review to the Office of Police and Crime Commissioner but some will have a right to the Independent Office of Police conduct (IOPC). This will be determined by PSD at the time the complaint is recorded.