



The Police Complaints System allows complaints to be dealt with in one of three ways, depending on the seriousness of the allegation:

- a) **Informal resolution** for the least serious allegations, such as the use of bad language.
- b) **Formal investigation**, for more serious allegations that might result in disciplinary or criminal charges against an Officer.
- c) **Supervised formal investigation** for the most serious cases involving for example death, serious injuries, assault, corruption and other serious arrestable offences. These cases are supervised by the Police Complaints Authority, Chief Constable, Devon & Cornwall Constabulary, Police Headquarters, Middlemoor, Exeter, EX2 7HQ.

PROCEDURE

The procedure for making a complaint about the conduct of a Police Officer is simple and informal. A complaint may be made in writing but may also be made orally.

If any oral complaint is made, a Police Officer will interview you as the Complainant and probably offer a draft statement for you to sign. However this is less likely to be satisfactory than a complaint made in your own words which can simply be put in letter form.

CONTENTS OF A LETTER OF COMPLAINT

A letter of complaint should enclose the following information: -

- a) Your name and address
- b) The date, time and place of incident
- c) Any means of identifying the Police Officer or Officers involved
- d) Any means of identifying the Police vehicle involved (if appropriate)
- e) Brief description of conduct complained about
- f) Where you would wish to be interviewed
- g) How you would wish to be contacted (whether at home, or at work, or by some other means)
- h) (Where appropriate) a request to preserve any specific documents or evidence (for example CCTV footage of an assault)

- i) (Where appropriate) a request for any immediate investigation that needs to be carried out e.g. searching a particular Officer's locker, finger printing, carrying out any medical or forensic science examination
- j) (Where appropriate) a request that specific interviews be carried out promptly, for example Custody Officer, occupants of adjoining cells, neighbours etc
- k) Whether you are content for the matter to be dealt with by way of informal resolution, or whether a formal investigation is required.

Another reason for moving promptly is to preserve evidence. The Police have procedures for automatic weeding out and destruction of written and computer records, and vital evidence may be lost. Similarly video footage might be accidentally mislaid, erased or damaged.

Please ensure that nothing in the letter is libellous!

Also, please ensure that you keep a copy of the complaint as a matter of course.

Complaints should then be sent to the Chief Constable (address as per first page).

WHEN TO MAKE A COMPLAINT

If a complaint is to be made, it should be made early on, whilst events are still fresh in your mind and the Officer complained of and the witnesses will still have good recall of the matter complained of.

If more than 12 months have elapsed between the incident giving rise to the complaint and the complaint itself, the Chief Officer has discretion not to investigate it, if he or she is of the opinion that there is no good reason for the delay.

PROCEDURE

When a complaint is made, the Police are under a duty to take any steps that appear desirable for the purpose of obtaining or preserving evidence relating to the conduct forming the subject of the complaint. For example this could include taking photographs, ordering medical examinations of an injured party or conducting searches.

If it is your own injury which has given rise to your complaint do not simply rely on the Police making a note of your injuries. It will preferable for you to arrange in addition, your own examination by a doctor and to arrange for your own photographs to be taken.

When you are being examined by the Police doctor, ensure that you do not discuss the circumstances of the injury with him or her, as this information could be quoted against you.

INFORMAL RESOLUTION

This is appropriate for the less serious complaints. It allows you, if you choose, to see whether your complaint can be resolved to your satisfaction without a formal investigation.

As part of the informal investigation process, you will be interviewed. It is wise for you to have a friend or adviser present at the interview for moral support. You will also be asked at the interview whether you would agree to informal resolution.

In certain cases, a complaint may be informally resolved as soon as it is made. This would be the case, for example, where a Superior Officer receives a complaint and the Officer concerned is present and is willing to give an explanation or apology immediately which satisfies you.

If you fail to agree to be interviewed about the complaint by the Police, the chances of having your complaint upheld are virtually nil.

There is only very limited funding available in certain cases under the advice and assistance scheme (Form CDS2) for you to have representation at the Police Station. Normally, you will be expected to attend yourself, or with the moral support of a friend.

Please ensure at the start of the interview, you receive confirmation from the Police that at the end of the interview you will be provided with a copy of your statement and of any notes they make.

The role of your friend or advisor is to intervene if the Police try to push you to make an admission, or if they become overbearing or oppressive. Similarly if the questioning gets rough or new facts emerge, you can call for an adjournment to discuss the matter in private with your friend or adviser.

At the end of the interview, you should ask the Investigating Officer to give an estimate of when or he or she expects to submit the report to the Chief Officer so that you are given some idea of timetable.

You are entitled to a copy of the record of the outcome of a complaint if you agree to informal resolution, provided that you apply for it within 3 months.

FORMAL INVESTIGATIONS

There must be a formal investigation of a complaint if it appears to the Chief Officer: -

- a) That is it too serious for informal resolution or
- b) Because you refuse to consent to informal resolution

If there has to be a formal investigation, an Officer is appointed to investigate complaints formally. That Officer is not necessarily from another Police Force. However the Investigating Officer must not be the Police Officer of the Force concerned, nor an Officer in the sub division or branch of the Officer being investigated.

The Investigating Officer will want to interview you about the complaint and to take a statement. The same comments apply to the this interview process as stated above under "informal resolution".

If you feel dissatisfied with the interview and that you have not been given the opportunity to deal with all the points you wanted to raise, a letter should be sent to the Investigating Officer explaining your dissatisfaction and a copy of the letter sent the Police Complaints Authority, which may then decide to supervise the investigation and to issue a direction to conduct another interview more fully.

Supervised Formal Investigation

Complaints about certain cases of serious misconduct must be referred to the Police Complaints Authority. These would include; -

- a) Death
- b) Serious injury

- c) Assault occasioning actual bodily harm
- d) Corruption
- e) A serious arrestable offence

The Chief Officer must refer such complaints to the Police Complaints Authority (P.C.A) within 24 hours of being made aware that grounds of complaint exist.

Any other type of complaint may be referred to the Police Complaints Authority but the Chief Officer is not under a duty to do so.

A Police Officer must comply with any directions from the Police Complaints Authority as to the conduct of any investigation. Each supervised investigation is individually scrutinised by a named member of the PCA. That person is available by telephone to discuss the investigation with you or your representative. You should take advantage of this opportunity and in serious cases, you should consider arranging a meeting between yourself, the PCA member and the Investigating Officer to discuss the progress and direction of the investigation. At the very least, you should ask the PCA member to keep you regularly involved of developments in the case.

At the end of the investigation, the Investigating Officer sends a report to the PCA with a copy to the Chief Officer. The PCA looks at the report and indicates whether it is satisfied with the investigation or not. The PCA's target for completing this consideration is 28 days from the receipt of the Chief Officer's report.

WITHDRAWAL OF COMPLAINTS

You can withdraw a complaint or tell the Police that you do not want them to take any further action on a complaint at any time.

COMPLAINTS WITH CANNOT OR NEED NOT BE INVESTIGATED

With the agreement of the PCA, a complaint can be dispensed with if it is not reasonably practicable to complete the investigation. A complaint may similarly be dispensed with if it is anonymous, repetitious, vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints, or if it is made more than 12 months after the incident.

AFTER THE INVESTIGATION

When a Chief Officer receives the Investigating Officer's report he or she must consider whether it indicates that a Criminal Offence may have been committed by a Police Officer, and whether that Officer ought to be charged with it.

If a Chief Officer considers that a Investigating Officer's report does not indicate that any Criminal Offence may have been committed, he or she must then consider whether any disciplinary proceedings against the Police Officer should be taken.

FALSE COMPLAINTS

There may be serious consequences for anyone who makes a false complaint, especially where the allegation against an Officer is serious.

There are three main courses of action which the Police can take in response to complaints which they feel are unfounded: -

- a) A Civil action for defamation
- b) A Criminal Prosecution for libel
- c) A Criminal Prosecution for wasting Police time

Dunn & Baker – Here to help you

Disclaimer: The material contained in this fact sheet is for general guidance only. It is specific to the law of England and Wales, and represents a brief outline of the law current as at the date of the fact sheet. It is not intended to constitute, or to be a substitute for, legal advice specific to your case. Dunn and Baker will be responsible only for advice specifically given to you.