

OFFICE OF THE POLICE AND CRIME COMMISSIONER



COMPLAINT REVIEWS - FREQUENTLY ASKED QUESTIONS (FAQs)

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1 About Reviews

1.1

What is a review?

If you believe the outcome of your recorded complaint about Cumbria Constabulary was not reasonable and proportionate, you may have the right to apply for a review.

An **application for review** is an opportunity to ask the OPCC or the Independent Office for Police Conduct (IOPC) to consider the outcome of your complaint.

Your complaint may have been investigated. Alternatively, your complaint may have been handled otherwise than by investigation, known as 'recorded -no investigation'. Most of the applications we deal with at the OPCC have been dealt with by way of 'recorded – no investigation'.

You should have been told by Cumbria Constabulary how your complaint was handled, what the outcome is and to whom you should apply to have the outcome reviewed. That is, whether it is the OPCC or the IOPC.

**A review is not a re-investigation of your initial complaint.
We will not investigate the original incident you contacted Cumbria Constabulary about.**

Our role is to consider whether the outcome of the handling of your complaint, given to you by Cumbria Constabulary, is reasonable and proportionate. This is the only question to be answered when carrying out a review.

You have 28 days, starting from the day after the date of your letter from Cumbria Constabulary to submit your application for review and a copy of the decision letter.

This includes any time that your applications spends in the post.

If we do not receive your application within 28 days of the date of the outcome, we do not have to consider your application.

1.2

How do I know if my application for review should go to the OPCC or the IOPC?

When you're told about the outcome of your complaint from Cumbria Constabulary, the letter will explain who you can apply to for a review; this is your **Relevant Review Body**. The Relevant Review Body (RRB) is the organisation that will deal with your application for review. This will be either the OPCC or the IOPC.

Your application for review should be sent to the relevant review body within 28 days of the date of your letter from Cumbria Constabulary. The letter will tell you when that date is and also how to submit your application for review.

1.3

When do I have a right to apply for a review to the OPCC?

Where the OPCC is the relevant review body, you can apply for a review to the OPCC:

- ✓ against the outcome of your complaint, if you feel it was not reasonable and proportionate.
- ✓ against the handling of your complaint.

There is no right to apply for a review to the OPCC where:

- ✗ Your complaint has been handled informally (outside of Schedule 3, Police Reform Act 2002)
- ✗ Your complaint does not meet the necessary legal criteria to be recorded (for example the person making the complaint is not eligible to be a complainant)
- ✗ Your complaint has been withdrawn previously

1.4

Will you act on my behalf?

No. We are an independent organisation and an impartial review body, therefore we do not represent or act on your behalf or the police's behalf. You can use another person to help you through the process, such as a family member, a friend or an independent solicitor. You can nominate a representative should you wish to, in your application.

2 The Review Process

2.1

I've applied for a review. What happens next?

First, we'll check that you've sent your application to the relevant review body, within the 29 days allowed by legislation. We'll send you an acknowledgement to confirm that we've received your application for review, outline what will happen next and let you know when you can expect to receive a decision.

We'll contact Cumbria Constabulary to obtain all of the relevant background papers and evidence about how your complaint was handled or investigated. This information will be passed to an independent reviewer, along with your application for review.

We may advise the person you made a complaint about that we have received your request for a review, we will not provide them with your correspondence. We may also have to speak to the person who carried out the handling or investigation of your complaint. We encourage you to provide as much information as possible in your application to explain why you feel that the outcome of your complaint is not reasonable and proportionate.

In all cases, your review will be conducted using all the available papers and supporting evidence that you and Cumbria Constabulary have provided alongside any further information that we consider it necessary to obtain, in order to make a decision on the review.

The person conducting the review will consider whether the outcome of your complaint was reasonable and proportionate. Where we find that the outcome is not reasonable and proportionate, we will uphold the review. We may also make a recommendation to Cumbria Constabulary with a view to remedying your dissatisfaction.

2.2

When can I submit information for consideration during the review process?

We will contact Cumbria Constabulary to obtain all evidence and background information regarding their handling of your complaint. We'll then use this information to conduct your review.

You can submit further information to us if you wish, preferably by email to commissioner@cumbria-pcc.gov.uk with your name and the LPB case reference.

The time when you submit your application for review is your opportunity to provide us with all the information for consideration. This is because you cannot provide extra information for consideration after a decision has been made.

You have until the time we reach a decision to submit any extra information, but we recommend that you do this within 7 days from when you submit your review to have the best chance that we will view it in time. We will not accept information after we have made a decision on your review.

2.3

When should I expect to receive a decision about my application for review?

We deal with applications for review as quickly as possible and will advise when you should expect to receive a decision in the acknowledgement letter that we send to you. We've taken steps to reduce our waiting times and it's possible that we will conduct your review much more quickly. In the unlikely event that your review is significantly delayed for any reason, we will of course make sure that we keep you informed.

2.4

What happens when a decision is made?

We will decide whether your review is **upheld** or **not upheld**.

Upheld

If we **uphold** your review it means we consider that the outcome of your complaint was not reasonable and proportionate. We will explain why that is the case and provide you with a review report and decision letter. We may make recommendations to Cumbria Constabulary.

Not upheld

If a review is **not upheld** it means we consider that the outcome of your complaint was reasonable and proportionate. We will explain why that is the case and provide you with a review report and decision letter. There is no right of appeal following a review decision.

Once we've made our decision of either **upheld** or **not upheld**, we'll write to you and Cumbria Constabulary to explain the reasons for our decision, as well as propose any recommendations.

Any possible recommendations will depend entirely on your individual case.

There is no right of appeal following a review decision that we have made. Review decisions are final. This means that any review decisions made by the OPCC can be overturned only by the courts through the judicial review process. You may wish to seek your own independent legal advice if you intend to pursue this course of action.

2.5

Does the OPCC deal with compensation claims?

No. The OPCC's remit does not cover claims for compensation from the police.

If you wish to pursue a financial claim against Cumbria Constabulary, you should contact their Legal Services Department.

You can also contact your local Citizens Advice Bureau for more information or to seek legal advice.

2.6

Can the OPCC make Cumbria Constabulary apologise to me?

No. The OPCC can recommend that an apology is offered, but we cannot direct the police to do this.

3 After the Review

3.1

What happens if my review is upheld?

If we uphold your review, we may recommend that Cumbria Constabulary should consider:

- your complaint should be investigated
- an officer should be referred into the Reflective Practice Review Process
- another recommendation to remedy the complaint, made under paragraph 12ZA

A recommendation is an action that the OPCC proposes that Cumbria Constabulary should carry out as a result of the review. Recommendations **do not** have to be followed.

If we make recommendations to Cumbria Constabulary, then they must consider them and respond to us within 28 days of the recommendation being made. We will advise you of their response. At this point our handling of the review is concluded.

We do not make recommendations in every case, even when we have upheld a review. Recommendations are considered on a case-by-case basis.

3.2

Can I submit extra information following the decision?

No. You cannot provide additional information once the OPCC decision has been made. The time when you submitted your application for review was your opportunity to provide us with all the necessary information for consideration.

3.3

The decision refers to 'reasonable and proportionate' – what does this mean?

In deciding whether the outcome was reasonable and proportionate, we will look at what actions the complaint handler took to address your complaint, whether the complaint handler took into account any relevant legislation and guidance, whether they engaged sufficiently with you in order to fully understand your complaint, whether the findings and determinations logically follow from the information or evidence obtained and whether they identified any potential for learning.

3.4

Can the OPCC make determinations on complaints about lawfulness?

No. Your complaint could be about the lawfulness of the conduct of a person serving with the police (for example, it may be alleged that an arrest or the search of your home was unlawful). We cannot reach a determination in the outcome as to whether there has been criminal behaviour or civil unlawfulness. Reaching determinations on these issues is for the criminal and civil courts and/or those conducting disciplinary proceedings. We may choose to express an 'opinion' in some circumstances on the issues of lawfulness where appropriate.

3.5

What happens if I don't agree with the OPCC's decision?

All decisions the OPCC make are final. There is no right of appeal against our decision following a review. Our decisions can only be overturned by the courts through the judicial review process. Please note that there is a three-month time limitation if you wish to judicially review an OPCC decision. You may wish to seek your own independent legal advice if you intend to pursue this course of action.

3.6

How do I complain about the complaint handler who considered my original complaint?

The OPCC cannot look at your complaint about the complaint handler's conduct or the service you received from them. If you wish to lodge a complaint against this person, you will need to contact Cumbria Constabulary's Professional Standards Department. Their details should be in the complaint outcome letter you received from them or you can access their website to submit an online complaint form.

3.7

What happens if I'm not happy with the service I received from the OPCC?

If you are unhappy with the service you have received, you can make a complaint to the OPCC Chief Executive. They will assess your complaint and look at the service you received from our staff. They will **not** address any concerns or queries about decisions made by the OPCC. You can contact the OPCC Chief Executive by sending an email to commissioner@cumbria-pcc.gov.uk