



CUMBRIA OFFICE OF THE POLICE, FIRE AND CRIME COMMISSIONER

INDEPENDENT CUSTODY VISITING SCHEME

COMPLAINTS AND DISCIPLINARY POLICY

Overview of Policy

The OPPC operates an Independent Custody Visiting scheme (ICV) which is staffed by volunteers.

The policy is in two parts a Complaints Procedure and a Disciplinary Procedure. Both are completely separate procedures and should be ran independently of each other.

The following policy provides clear guidelines for the Police and Crime Commissioner, Independent Custody Visitors, Police Officers and Police Staff and all other staff to adhere to when a complaint is made against an Independent Custody Visitor.

The policy also provides clear guidelines for the Disciplinary Process to be followed if the Complaint is upheld or if there are other serious concerns about a volunteer.

Complaints Procedure

Individuals who want to make a complaint about an Independent Custody Visitor should follow this procedure.

It is important that concerns are identified at an early stage and shared with the appropriate person so that they can be discussed and, if possible, matters put right in an informal way. Individuals are encouraged where possible to try to make their concerns clear to the other person involved so that they can discuss the issues and work together to try to resolve the matter between them. If they are not able to reach a satisfactory conclusion informally, then this procedure should be followed.

Complaints that are raised normally need to be about a matter which has occurred in the previous 2 weeks. However, relevant corroborating information may be gathered by the investigator as evidence of a pattern of behaviour.

PROCEDURE STAGES

Stage 1

- 1) The Complainant will be asked to make their complaint in writing addressed to the ICV Scheme Administrator. Complaints should, where possible, be submitted within 2 weeks of any incident.
- 2) The ICV Scheme Administrator will send out an invitation to meet the Complainant within 14 days of receiving the complaint; the Complainant will be encouraged to think about what their desired outcome would be and how they believe the situation could be satisfactorily resolved. The Complainant may be accompanied by another person of their choice, for support. The ICV Scheme Administrator will also have a second person from within the organisation present to make notes of the meeting.
- 3) As the complaint will be about a volunteer, then the ICV Scheme Administrator will also meet with this volunteer to discuss the matter and hear their side of the story. This is a meeting to find out facts and to ascertain whether they would be able to reach agreement or a compromise with the Complainant. The volunteer may be accompanied by another person of their choice, for support. The ICV Scheme Administrator will also have a second person from within the organisation present to make notes of the meeting.
- 4) Both the Complainant and the volunteer they have complained about will be offered Peer Support to assist them during the process.
- 5) The ICV Scheme Administrator will have one of three decisions to make:
 - A) No further action needed;
 - B) Complaint upheld;
 - C) Complaint not upheld.
- 6) The ICV Scheme Administrator will inform the Complainant of their decision, either face-to-face or by a phone call, which will then be followed up in writing to confirm within three weeks of the meeting.
- 7) Where a complaint is upheld, it may be necessary to then follow the disciplinary procedure below with the volunteer against whom the complaint was made.
- 8) If the Complainant is not satisfied with the outcome of Stage 1, the Complainant can escalate the issue to the OPCC by going to the Appeal Stage.
- 9) If the Complainant chooses not to appeal the outcome, the process is now concluded.
- 10) If the complaint was between volunteers and the process has now concluded but challenges remain between the volunteers involved, mediation should be recommended as a way of improving working relationships between the volunteers.

Stage 2 - Appeal

This right of appeal is not afforded to volunteers about whom the complaint is made, but is available to the person who made the complaint should they be unhappy with the outcome. The person complained about may want to raise their own complaint or, if they are taken through the disciplinary procedure as a result of the decision made, will have the opportunity to explain circumstances surrounding their behaviour.

- 1) The appeal will be heard by the OPCC Chief Executive.
- 2) The Complainant must begin the appeals process by writing to the Committee stating that he/she wishes to appeal and setting out the reasons why, clearly explaining why he/she does not agree with the decision, on no more than 4 sides of A4 paper.
- 3) The appeal must be made within 21 days of the date of the result being given.
- 4) The principles for holding an appeal hearing are generally the same as for the Stage 1 hearing above. It can be an occasion when discussion and dialogue could produce a resolution. However, the following should also be considered:
 - A) The reasoning behind the appeal;
 - B) Any new evidence since the earlier decision;
 - C) Ensure the Stage 1 process was followed accurately.
- 5) The Chief Executive will coordinate an appeal hearing with the volunteer appealing; JASC may also need to speak to other involved parties before or after the appeal hearing.
- 6) The Chief Executive will consider all documentation and evidence and the decision letters will be sent within 14 days of the appeal hearing.
- 7) The decision of the Chief Executive is final and conclusive.
- 8) All avenues of the process have now been exhausted. However, if challenges still remain between the volunteers involved, mediation should again be recommended as a way of improving working relationships between the volunteers.

Disciplinary Procedure

This is the part of the policy for when there is an issue about how a volunteer is carrying out their role. This could be because a complaint against a volunteer has been upheld, their performance is not as it should be, their behaviour has caused a breakdown in relationships within the scheme, they have failed to respect confidentiality or have persistent issues with timekeeping or attitude. This is not an exhaustive list. Responding to complaints about a volunteer is never a comfortable process. The procedure is used to ensure a volunteer knows that a complaint has been made, how to respond and make amends and, if necessary, to appeal.

Sometimes a volunteer's performance may be affected by a variety of factors, including health or personal issues they may be managing. The procedure deals with these capability aspects as well as deliberate misconduct. Bearing this in mind can ensure that although there is acknowledgment of something going wrong, there is no assumption of fault.

When addressing difficulties of behaviour or performance, the ICV Scheme Administrator must meet with the volunteer and discuss what the requirement is and how the standard could be reached. At all stages, it is necessary to make any reasonable adjustments for volunteers identified as having disability or health issues.

Carrying out an investigation

An investigator will be appointed to lead the investigation. In most cases this will be the Chair of the Panel but in certain circumstances, for example if the Chair has been involved in the matter being investigated, this will be a Chair from another Panel, the ICV Scheme Administrator or an External Consultant.

Suspension

A volunteer may be suspended from volunteering during an investigation. This will happen automatically if the issue is something which is considered serious misconduct, but may also be necessary if the investigation is likely to cause disruption or unrest. This should not be viewed as a penalty but is important so that the situation can be investigated as fully as possible.

Outcomes of an investigation

After meeting the volunteer concerned, the investigator will analyse all available evidence into the situation. There are five potential outcomes available to conclude the investigation:

No further action

The investigator does not believe there is a case to answer or sufficient evidence to warrant any action.

Development Plan

The investigator believes that no action is required but there is enough evidence to support a development plan. A list of actions should be drawn up over a specific

timeframe (normally 6 months) which gives the volunteer focus on what needs to improve. The ICV Scheme Administrator should meet with the volunteer at the end of the review period to determine whether the volunteer's behaviour or performance has improved. If the volunteer continues to show insufficient improvement, further action may be necessary.

Verbal warning

The investigator believes the situation not to be too serious but that action is required to ensure that the volunteer recognises the problem. Verbal warnings last for a maximum of six months and a record of the circumstances that led to this warning must be kept in the volunteer's file.

Written warning

The investigator believes the situation to be serious and action is required. Written warnings last for a maximum of 12 months and a record of the circumstances that led to this warning must be kept in the volunteer's file.

Dismissing volunteer

The investigator believes the situation to be serious misconduct and that other measures of disciplinary action will not be sufficient. On this occasion, the volunteer will be dismissed from all roles with immediate effect.

Examples of serious misconduct

The list below is intended as a guide (and is not exhaustive) to assist investigators to determine whether the action being investigated should be defined as serious misconduct:

- Breach of policies and procedures;
- Inappropriate contact with a vulnerable person/persons;
- Failure to take direction and follow lawful instruction;
- Theft, fraud or dishonesty;
- Physical violence or threatening behaviour;
- Inability to carry out role due to influence of alcohol or drugs;
- Falsification of records, including expense claims;
- Breach of confidentiality;
- Wilful or reckless damage to property;
- Discrimination on the grounds of gender/sexuality/race/disability, bullying or any other harassment;
- Discrimination either directly or indirectly towards a detainee;
- Behaving in a way that undermines Cumbria Constabulary or the Office of the Police and Crime Commissioner for Cumbria;
- Bringing/potentially bringing Cumbria Constabulary or the Office of the Police and Crime Commissioner for Cumbria into disrepute.

Stage 1 – Investigation

This stage should be used to investigate all breaches of misconduct or performance to determine the seriousness of the situation and what action should be taken to resolve it. An investigator will be appointed to carry out this process.

- 1) If the misconduct is deemed sufficiently serious or if it would be in the best interests of the organisation, then the volunteer must be suspended from all active volunteer roles whilst the matter is investigated and concluded.
- 2) The investigator will write to the volunteer asking them to attend a meeting to discuss the issue; the letter should clearly state all the concerns or allegations that will be discussed at the meeting. If any documents will be referred to in the meeting the volunteer will need to receive a copy of these in advance; the letter should also include the five different potential outcomes of the investigation as outlined above.
- 3) The volunteer may be accompanied by another person of their choice, for support. The role of this person will be to provide support, however they will not be able to speak on behalf of the volunteer.
- 4) The investigator will also be accompanied by a second person from within the OPCC to make notes of the meeting.
- 5) The investigator will advise the volunteer at the end of the meeting that an outcome of the investigation will be communicated within 14 days. If a decision is not available within that timeframe, the investigator will have the option of extending by a further 14 days, however, the volunteer must be informed of the delay and reason for delay within the original 14 days window.
- 6) After the meeting, the investigator may need to meet with other individuals involved in order to attain further evidence.
- 7) Once the investigator has met with the volunteer, other individuals involved (if necessary) and considered all documented evidence, the investigator will reach one of the following five decisions:
 - A) No further action;
 - B) Development plan;
 - C) Verbal warning;
 - D) Written warning;
 - E) Dismissing volunteer.
- 8) Outcome D and outcome E require a written report by the investigator explaining the investigation and how the decision was reached.

- 9) The investigator will inform the volunteer of their decision, either face-to-face or by telephone, which will then be followed up with written confirmation within 14 days of the meeting/conversation.
- 10) Where the outcome is D or E, the letter to the volunteer should detail the volunteer's right to appeal.

Stage 2 – Appeal

A volunteer has the right of Appeal against a written warning and against the decision to ask them to leave. A volunteer does not have the right to complain about outcomes A, B or C.

- 1) The OPCC Chief Executive who will not previously have been involved in the case will hear the appeal.
- 2) The volunteer should begin the appeals process by writing to the Chief Executive stating that he/she wishes to appeal and clearly setting out the grounds and reasons why he/she does not agree with the decision, on no more than 4 sides of A4 paper.
- 3) The appeal must be made in writing within 21 days of the date of the result being given.
- 4) The Chief Executive will meet with the volunteer and the investigator separately and each may be accompanied by another person (whose role will be to provide support but not to actively participate). The Chief Executive should ideally meet within 30 days of an appeal being made. In some limited circumstances this may take up to 60 days.
- 5) The Chief Executive can uphold a volunteer's appeal against a written warning and a dismissal. However, any return to volunteering remains at the discretion of the ICV Scheme Administrator.
- 6) The Chief Executive should inform the volunteer and the investigator of the outcome within 14 days.
- 7) The Chief Executive's decision is final and conclusive.