

NORTH YORKSHIRE POLICE, FIRE AND CRIME PANEL

The Panel's Complaints Sub-Committee met on 13th November 2018 and 8th January 2019 to review a complaint lodged against the Police, Fire and Crime Commissioner ("the PFCC"). This report sets out the conclusions reached by the Sub-Committee following their review of this matter.

1. The Panel's role in complaints about the PFCC

The North Yorkshire Police, Fire and Crime Panel is responsible for dealing with (non-criminal) complaints about the conduct of the PFCC.

The Complaints Sub-Committee has responsibility for considering the handling of complaints by informal resolution. Informal resolution is a way of dealing with a complaint by solving, explaining, clearing up or settling the matter directly with the complainant, without investigation or formal proceedings. The Panel has appointed a sub-committee of three members of the Panel to carry out this responsibility, in line with the Panel's formal complaints handling protocol. Those present and attending the above meetings were as follows:

Present: Cllr Peter Wilkinson (Chair), Santokh Singh Sidhu and Paula Stott.

In attendance: Barry Khan (Legal Adviser to the Panel) and Diane Parsons (Panel Secretariat).

2. Context to complaint

The Panel received a statement from a former employee of the PFCC (who will hereafter be referred to as "BC"), which was submitted in support of the complaint from "AB" regarding the conduct of the PFCC (then Police and Crime Commissioner). However, having reviewed BC's supporting statement in detail, the Sub-Committee determined that a particular element of that statement needed to be recorded and reviewed as a separate complaint in its own right. Consideration was given as to whether or not the same three Sub-Committee members who had deliberated on the "AB" complaint should also deliberate on this matter and it was decided that it would provide a helpful continuity in the context of the previous deliberations.

3. Complaint summary

The specific complaint had regard to an alleged request made of BC by the PFCC in BC's former role as an employee to the PFCC. The allegation centred around instructions given to BC to review a social media account owned by the PFCC and to take steps to remove anything which might associate her with an individual who had volunteered in a previous election campaign on her behalf and who was subsequently found to have been convicted of serious crimes. BC also alleged that they had been

instructed to give what BC felt to be a false statement to the media in respect of the PFCC's association with this individual.

4. Legal framework and referral to IOPC

Under the regulations which govern how Panels may handle complaints, Panels are prohibited from undertaking any investigation into the accounts provided by the PFCC or the complainant.¹

However, under the same regulations, the Panel is legally obliged to consider referring a complaint to the Independent Office for Police Conduct ("the IOPC") where the allegations made pertain to a potential criminal offence. The PFCC's Interim Chief Executive Officer/Monitoring Officer advised the Panel's Lead Officer that he felt the allegation made that the PFCC had made a dishonest statement to the press to be a matter which should be referred to the IOPC. The Lead Officer and Panel's legal adviser, having reviewed BC's statement and accompanying material in detail, concurred that this allegation had the potential to be seen as a complaint concerning the offence of misconduct in public office ("MIPO"). As such the matter was duly referred to the IOPC for them to determine whether an investigation was required.

The IOPC responded that:

"The IOPC has decided that this matter should be returned to [the Panel] to be dealt with in any manner you determine, in accordance with Part 4 of the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012. This is because based on the information provided, we did not feel an investigation was required at this stage.

...Although [BC's] allegations are supported by [BC's] own evidence, the IOPC is not satisfied that the available information supports the assertion that the PCC acted dishonestly or that the allegations meet the threshold for an offence of MIPO. As such this matter will not be subject to an investigation and we are returning this matter to you to be dealt with in any manner you see fit."

Again, it should be noted that Panels are prohibited from undertaking any investigation and the legal remit for Panels in handling complaints extends to considering whether a complaint matter can therefore be dealt with via informal resolution (see also section 1). Having reviewed the IOPC's response, the Lead Officer subsequently determined that the matter should be reviewed by a Complaints Sub-Committee of the Panel (see also section 2 – Context) within its remit to consider

¹ The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 – para 28(7).

handling the matter by informal resolution. The Sub-Committee's review of the evidence has therefore been confined to making an assessment based on the complaint, the PFCC's response to this and any further clarification sought by the Sub-Committee on the information provided.

5. Sub-Committee's approach and findings

Due to the nature of the allegations presented, the Sub-Committee gave careful consideration to the evidence provided with regard to the following contextual sources:

- The Nolan Principles of Public Life;
- The PFCC's Oath of Impartiality; and
- The PFCC's national lead portfolio for Transparency and Integrity.

As per standard practice in reviewing complaints, the Sub-Committee only had limited access to a printed copy of the complaint material which was kept securely at County Hall. Having reviewed the material in full at a formal meeting convened on 13th November 2018, the Sub-Committee agreed that further enquiries should be made with both BC and the PFCC to assist the Sub-Committee in making a reasoned assessment. This was particularly due to the historical nature of the allegations and the paucity of any corroborative evidence.

Under the governing regulations, the Sub-Committee is able to invite the PFCC to attend before the Sub-Committee to answer questions. The PFCC was invited to attend the second Sub-Committee meeting convened on 8th January 2019 to provide clarification around the written response she had previously provided. The Sub-Committee is unable to investigate but was able to use this opportunity to seek clarification from the PFCC about her recollection of the events described and her association with the individual identified in the complaint. BC was also afforded the opportunity to provide further comment and clarification for the Sub-Committee prior to this meeting in writing, particularly once the PFCC's response to the allegations had been shared with BC.

Part of BC's statement had alleged that BC had expressed reluctance to the PFCC, initially, in removing the digital footprint which would have evidenced links between the PFCC and the individual in question. They had further added, however, that in spite of this reluctance, the PFCC had "made it clear in no uncertain terms what was expected of me". The Sub-Committee had invited BC to offer corroborative evidence, for example contemporaneous discussions they may have recalled having, to help evidence the allegations made, but none was provided. The PFCC refutes that any concerns were raised by BC at the time, either with herself, BC's line manager or the Monitoring Officer. She also sought to clarify that her "expectations" of BC in this

context amounted to flagging up any risks with her that may arise as a result of the media interest in the individual in question.

It is apparent from the statements provided to the Sub-Committee that there is difference in opinion between BC and the PFCC regarding the veracity of the PFCC's statement to the media about the length of her association with the individual in question. BC inferred in the course of their conversations with the PFCC on the matter – and in the course of considering the response to the media enquiries – that the PFCC had continued to have an association with the individual in question, via social media, after her election campaign in 2010. The PFCC maintains that she cannot recall whether the individual in question attended an informal 'thank you' event held after her election campaign or whether she has had any correspondence with that person since then.

The social media account which was at the centre of these allegations was the PFCC's own personal account. The PFCC has advised the Sub-Committee that she does not know what, if any, changes were made to this account by BC following their conversation, nor has she made any subsequent checks of that account in order to attempt to verify what, if anything, was done. The Sub-Committee requested a copy of the digital footprint of the PFCC's social media account to be able to identify whether it would be possible to evidence changes made to the account during the period in question. However, the PFCC was unable to assist in this respect due to the historical nature of the allegations, so the Sub-Committee were unable to take a clear view on the course of events.

In light of the IOPC's refusal to investigate the matter, the Sub-Committee's role is to consider whether or how informal resolution may be applied to this complaint matter. However, this is an historical matter involving a difference in opinion between the individuals who have submitted statements in terms of the instructions given and the accuracy of the PFCC's recollections about the length of her association with an individual who was later found to be convicted criminal. As such this renders it difficult to adequately resolve the dispute through informal resolution. Furthermore, as the Sub-Committee has been unable to investigate the circumstances of the complaint, this makes it very difficult to make unequivocal findings of fact. To be clear, if the Sub-Committee had undisputed information that the PFCC had altered her social media account in this way, the Sub-Committee would have no hesitation in stating that such a course of action was in breach of the Nolan Principles.

6. Conclusions

1. The allegations made in BC's statement imply that there has been a breach of the Nolan Principles due to a lack of transparent conduct by the PFCC. While the Sub-Committee are fully cognisant of the implications of such allegations, no information has been presented to corroborate the allegations made. As such there is insufficient

basis to conclude that there has been a breach or that the allegations are in any way proven, or accepted.

2. No specific recommendations are therefore being made by the Sub-Committee for the PFCC in this matter.

A handwritten signature in black ink, appearing to read 'Peter R Wilkinson', with a long horizontal flourish extending to the right.

Cllr Peter R Wilkinson

Complaints Sub-Committee Chair

20th May 2019