

NORTH YORKSHIRE POLICE, FIRE AND CRIME PANEL

This report sets out the conclusions reached by the Panel's Complaints Sub-Committee regarding their consideration of two complaints submitted against the Police, Fire and Crime Commissioner for North Yorkshire ("the PFCC").

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 involved in reviewing these complaints 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. Complaints summary

The Panel received complaints from two former employees of the PFCC in October and November 2018 respectively. Both complainants conveyed that having seen details of the Sub-Committee's report regarding the 'AB' complaint (published 24th October 2018), they had identified with some of the aspects of alleged bullying behaviour as considered within that report which they contended they had also been subjected to when working for the PFCC.

The complainants – hereafter referred to as "Complainant 1" and "Complainant 2" - had undertaken different roles within the OPFCC. The two individuals had some overlap in respect of their period of employment within that office.

While the context to the two complaints and the specific examples provided are different due to their job roles, there were several salient points that they raised in respect of the nature of their experiences. The Sub-Committee were able to draw on the OPFCC guidance on Bullying and Harassment (as adopted from the North Yorkshire Police guidance) when considering the complaints. Within the context of the guidance, the allegations presented by the complainants may best be summarised as follows:

- Alleged oppressive and overbearing supervision;
- Alleged constant criticism and negative feedback;
- Allegedly feeling undermined and even humiliated;
- Alleged overloading and/or feeling set up to fail at work.

Complainant 2 also expressed that they felt there had been a lack of duty of care on the part of the (then) OPCC towards them as they alleged that their predecessor had raised issues in respect of the PFCC's behaviour and that nothing was done to support Complainant 2 when coming into the role.

The complainants also refer to the additional difficulties presented in trying to deal with the issues they allege to have experienced because it was perceived that there was no one to report issues or concerns to regarding the PFCC, beyond their immediate line management, during their period of employment.

Both complainants requested that their identities remain anonymous from the PFCC due to concerns that there may be potential for a less favourable employment reference being provided for them.

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.

3. Procedural considerations and key issues considered

Panel remit

Legally, the Panel can decide to disapply any complaint regarding the conduct of the PFCC where the complainant was working as a member of the PFCC's staff at the time. However, the Panel considered that due to the significance of the contentions made and the fact that there are multiple complaints that it would not be appropriate to disapply these complaints. The complaints were also suggestive of allegations similar to those made in the 'AB' complaint, previously deliberated upon, and as such it was felt appropriate that complaints of a similar nature are given consideration by the Panel.

The Panel has no power to investigate complaints. The Sub-Committee is clear that the process of considering the complaints needed to be robust, measured and impartial; particularly as there is no legal mechanism for enabling testing or validating of representations made.

The process for reviewing the two complaints has been rendered particularly lengthy due to the need for careful deliberation of issues and concerns raised by the Commissioner and her (then) Chief Executive Officer which pertain to procedural

fairness. Steps taken by the Sub-Committee as a consequence included affording the complainants the opportunity to make full written representations on their complaints and, in line with the governing legislation, affording the Commissioner the opportunity to attend in person to speak to the complaints.

Anonymity of the complainants

A key consideration for the Sub-Committee in delivering a robust process was the complainants' request for anonymity from the PFCC and the implications of this for the process. Regulation 31(2) of the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 ("the Regulations") enables the Panel to anonymise a complaint before sharing with the person complained against.

The PFCC was therefore provided with redacted versions of both complaints and was invited to respond on these in November 2018. Cognisant of the difficulties that this would present for the PFCC in responding in any detail to the allegations made, the complainants were twice asked by the Panel Secretariat to consider whether they wished to remain anonymous. Both complainants stated clear objections to their anonymity being waived during the process. The PFCC's Chief Executive Officer advised the PFCC's concerns that the complainants should be specifically identified to enable the PFCC to respond fully and that, if not done, there is a considerable risk of procedural unfairness.

When the Sub-Committee convened formally in February 2019, further consideration was given to the PFCC's position in this regard and was weighed against the complainants' request to remain anonymous. The Sub-Committee considered the limitations imposed upon the PFCC by maintaining anonymity. However, when balanced against the wishes and objections of the complainants themselves, it was considered that it would not only be detrimental to their wishes to provide these details but additionally could discourage potential other complainants from making a complaint via the Panel in the future. The Sub-Committee also considered that the generality of the information provided in the redacted form of the two complaints is sufficient for the PFCC to furnish a response, albeit it may be limited due to the anonymity of the complainants. As such, the PFCC was invited to make representations to the Sub-Committee in April 2019.

Representations by the PFCC

In her representations the PFCC reiterated the sentiments of her published apology of 8th November 2018, which was submitted in respect of the "AB" complaint report. However, the PFCC identified the significant constraints on her ability to respond to specific complaints where these have been anonymised. The PFCC also indicated that representations had never been made by staff – either directly to her or via other officers – to suggest that there may have been bullying behaviour on her part and that it would have been addressed if so. Additionally, the PFCC felt that with the exception

of "AB", no information has been provided when employees have left the OPFCC to suggest that they had experienced this sort of behaviour from the PFCC.

Due to the anonymous nature of the complaints and the limitations this presented for the PFCC in responding, the key tenets of the PFCC's representations subsequently focussed on the potential for procedural unfairness on the part of the Sub-Committee in progressing consideration against the two complaints. This also highlighted a contention that there may have been a degree of collaboration between some complainants, as well as questioning the motivations of these, which the Sub-Committee gave further consideration to (see below).

The PFCC recognised the need for a strengthened leadership team at the OPFCC to help ensure that any such issues can be raised and dealt with early on. The Panel has been given assurances that the Office of the Police, Fire and Crime Commissioner will be a learning organisation and have a more open culture.

Collaboration between complainants

The PFCC advised the Sub-Committee early on in the process of her concerns that there may have been some collaboration between complainants from both the 'AB' complaint and the anonymised complaints. The PFCC also contended that this alleged collusion may have been politically-motivated against her position as PFCC. Furthermore, there was an allegation that there may have been some solicitation of further complaints by some of these individuals from current and former OPFCC employees.

The Sub-Committee cannot investigate the concerns raised but it noted that no specific evidence was provided to support these contentions. The Sub-Committee also noted that evidence of collaboration is not evidence per se that complaints are not true. Indeed, it is noted that there can be legitimate reasons for staff who work together or are united over a common theme to discuss matters of concern to them.

4. Sub-Committee findings

As the Sub-Committee is unable to investigate, it is not possible to test the PFCC's assertion that concerns regarding her conduct towards staff have never been made either to her or to senior colleagues in the team nor is it possible to test the assertions made by the complainants. However, content from Complainant 2's statement alleges that concerns were raised directly with the PFCC during their employment and that this was also shared with other colleagues including the (then) Chief Executive Officer. Indeed, the Sub-Committee note it to be entirely feasible that employees may not provide negative feedback in leaving their employment due to concerns that they may not receive a favourable reference in the future. The absence of such feedback on leaving employment does therefore not in itself suggest that complaints have been

fabricated. Again the Sub-Committee note that the Panel has no power to investigate complaints nor determine the veracity or otherwise of the complaints.

Moreover, while there is the possibility that former employees of the OPFCC have connected and shared experiences in relation to their time of employment for the PFCC, the Sub-Committee do not feel this renders the complaints untrue or not legitimate.

However, the Sub-Committee are keenly aware of the significant restrictions that the anonymity of the two complainants has placed on the PFCC in being able to answer to specific allegations made and, consequently, to the Sub-Committee's ability to be able to make a rigorous assessment.

The generality of the allegations made refer to some concerns originally identified in the handling of the "AB" complaint report and which indicate potentially similar breaches of the North Yorkshire Police guidance on Bullying and Harassment, as referenced within that report. These clearly cannot be tested within the confines of the Panel's legal remit. However, within the context of the "AB" report, a comprehensive set of recommendations have already been put in place by the Sub-Committee and agreed by the PFCC; with a view to supporting the PFCC in her leadership role, to ensure that a survey of staff perceptions is undertaken and to help ensure that the PFCC's legal duty of care is being robustly discharged. The Sub-Committee is informed by the Commissioner that progress is being made towards fulfilling these recommendations by the PFCC and her office and a report will be brought to the full Panel in November 2019 to this effect.

The Sub-Committee also notes the recent changes put in place within the OPFCC to help bolster the senior leadership team structure and to help ensure that there is a consistent staff lead presence in situ at the OPFCC to deal early on with any issues or concerns arising.

Informal resolution

The role of the Sub-Committee in reviewing the two complaints is to determine whether informal resolution would be an appropriate mechanism for dealing with the complaints.

The PFCC has already provided a published apology in respect of the "AB" complaint. The PFCC was invited to consider whether informal resolution could be effected in respect of Complainants 1 and 2. This needed to take into account factors such as the difficulties implicit in dealing with anonymous complainants and the need for procedural fairness for both sides. The PFCC, however, has agreed to write to both complainants, via the Sub-Committee, expressing regret for any hurt experienced and assuring both of the changes underway within the OPFCC and progress being made against the Sub-Committee's recommendations of October 2018.

The Sub-Committee acknowledges that the process for reaching this resolution has, regrettably, taken far longer than would normally be expected when dealing with a complaint matter. The circumstances of the complaints being anonymised are, however, extraordinary and have led to a number of issues and challenges which required careful consideration and legal guidance. The Sub-Committee welcomes that the PFCC has committed to effecting a local settlement by way of resolution to this matter.

5. Conclusions

1. It is difficult to fully effect the principles of 'natural justice' for both parties to a complaint where the complaints themselves are anonymised. The Sub-Committee has been keen to ensure a fair process throughout, in spite of the difficulties presented. It is recognised that the allegations made are untested and undetermined and are made anonymously to PFCC.

2. The content of the complaints cannot legally be tested or validated in any way, although the allegations made and concerns expressed by the complainants regarding the PFCC's conduct were similar to issues and concerns which have been addressed within the context of the previous "AB" report. The Sub-Committee is informed that progress is being made by the PFCC to ensure the suite of recommendations from that report are being taken forward. The Sub-Committee does not consider that further – specific – recommendations need to be made in this instance as a result of these complaints.

3. Given the anonymity of the complaints and the proposed actions of the PFCC in issuing an apology, the Sub-Committee fully endorses this approach as a local settlement to this matter. The Commissioner has agreed that the Panel can forward a letter to the complainants to express regret for any hurt they have experienced and assuring them of the progress being made against team and individual development recommendations. A copy of the Commissioner's letter will be published on the website. This action means that this complaint can be recorded as an informal resolution.

4. The Sub-Committee wishes to apologise to the complainants in this matter for the time taken to fully resolve these complaints.



Cllr Peter R Wilkinson
Complaints Sub-Committee Chair
8th October 2019