

DATE 22/03/2023

## FOI 10/2023

I write in connection with your request for information processed under the Freedom of Information Act 2000 and received in the Office of the Police and Crime Commissioner for Derbyshire on 16/03/2023 when you asked the following question(s):

In answer to your request please see the following:

*Investigating complaints is NOT the role of the PCCO. what is the legal definition of an investigation in the context of reviews of police complaints.*

Please see the IOPC statutory guidance on complaints - [Statutory guidance on the police complaints system \(policeconduct.gov.uk\)](https://www.policeconduct.gov.uk) which states the following -

***“Where a complaint has been recorded under Schedule 3 to the Police Reform Act 2002, the complainant has a right to apply for a review of the outcome of the complaint. This applies whether the complaint has been investigated by the appropriate authority or handled otherwise than by investigation<sup>142</sup>. The review will consider whether the outcome of the handling of the complaint is reasonable and proportionate. Where the relevant review body finds that the outcome of the complaint is not reasonable and proportionate it will uphold the review”.***

*confirming or clarification of information refers to information already received  
....what is PCCO understanding or legal definition ..if different*

**We cannot understand what is being asked for here. Please provide further clarity.**

*Where complaints have been made but not recorded by Police is this included as part of the review process ??,*

**No. only complaints that are recorded under Schedule 3 to the Police Reform Act 2002 are eligible to apply for a complaint review.**

*If so what is being reviewed ? the decision not to record ? or provide an opinion on the validation of that complaint ?*

**N/A**

*where judicial reviews are identified as the only option to challenge the outcome of a review does this include the following*

*a. where Police have provided new information that changes the original outcome should this be sent back to police ?... or judicial review*

**This depends on the situation in question.**

**If the information would fundamentally change the outcome of the complaint review then the OPCC would normally uphold the complaint and may give recommendations, learning and feedback to the Constabulary for them to consider and take further action on.**

*b given the review outcome is final is it acceptable for pcco to include points not raised by the complainant ?*

**This depends on the situation in question.**

**Sometimes additional information is included which aids understanding of the review outcome for the complainant or adds context to the points of their review.**

*once those points have been raised should officers be questioned about those concerns and a outcome be recorded ? Thus preventing the complainant making a formal complaint about the same issue ?*

**This depends on the situation in question.**

**If the information would fundamentally change the outcome of the complaint review then the OPCC would normally uphold the complaint and may give recommendations, learning and feedback to the Constabulary.**

**If the complainant is unhappy with the complaint review outcome, then their next step in the process would be to apply for a Judicial Review through to the courts.**

*would the allegation pcco had included additional points in the review to prevent a formal complaint being made and investigated at a later date be a matter for judicial review? or addressed as a complaint against the person conducting the review.*

**This would be a Judicial Review through to the Courts.**



*PSD do not accept complaints already addressed by pcco which means a concern or dissatisfaction is not recorded against the officer as a complaint and the matter is not investigated*

**The OPCC would record any recommendations, learning or feedback identified from a complaint review regarding officers to PSD for consideration and further action to be taken.**

*Are review reports audited by an independent body ,?*

**No. Although the content and outcome of the complaint review would be assessed by the Courts as part of the Judicial Review process.**

*Is it possible in a situation where the complainant is not entitled to legal aid or able to fund a judicial review £25,000 average costs. for pcco to collude with police officers provide false information knowingly or otherwise safe in the knowledge this will never be investigated or challenged ?*

**No, all reviews are undertaken fairly and thoroughly. There is a right of review through a judicial review should the complainant choose to take it.**

*what is in place to prevent this happening ..*

**All reviews are undertaken fairly and thoroughly. If there was a Judicial Review brought before the OPCC then the complaint review outcome would be scrutinised accordingly by them.**

*any policies & procedures where it becomes apparent a police officer has lied or there is conflicting information what action should be taken by pcco staff , if any.*

**No information held at OPCC regarding policies.**

**If the Commissioner determines from the complaint review outcome that an officer has been untruthful then the Commissioner can make a recommendation for the Constabulary to look further into this and take any action that they deem appropriate. However, under the complaint legislation it is down to the Constabulary what action then take, not the Commissioner.**

If you are not satisfied with our response to your request, under Section 17 of the FOIA of the FOIA you are entitled to ask for an internal review of our decision. Any internal review needs to be submitted within two months of the date of receipt of this response and state why you are unhappy with the response. You can submit an internal review in the following ways:

- \* emailing the OPCC Inbox –  
PCCOffice@Derbyshire.PNN.Police.UK or;
- \* writing to the OPCC at –  
The Office of the Police and Crime Commissioner for Derbyshire  
Butterley Hall



Ripley

Derbyshire

DE5 3RS

By phone – 0300 122 6000 (as a reasonable adjustment under the Equality Act 2010).

If you are not satisfied with the outcome of the internal review under Section 50 of the FOIA you can apply directly to the Information Commissioner (ICO) for a decision. Generally, the ICO cannot make a decision unless you have exhausted the internal review procedure provided by the OPCC. You can contact the ICO in the following ways:

- \* online at the ICO –  
<https://ico.org.uk/global/contact-us/> or;
- \* writing to the ICO at –  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Yours sincerely

A handwritten signature in black ink, appearing to read 'Marie Romano', with a large, stylized initial 'M' and 'R'.

**Marie Romano**  
**Head of Governance and Compliance**  
**On behalf of the Police and Crime Commissioner**

