

8 April 2019

*How to complain about a MOD Police Senior Officer*

**MOD POLICE COMMITTEE POLICY**  
**FOR COMPLAINTS AGAINST A SENIOR MOD POLICE OFFICER**

**Introduction**

1. This policy explains how the MOD Police Committee (MODPC) deals with any complaints that may be made by members of the public against a senior officer (NPCC Rank) of the MOD Police (MDP). The policy takes account of both the Independent Office for Police Conduct (IOPC) and Police Investigation and Review Commissioner (PIRC) Statutory Guidance.

2. The MOD Police Committee is appointed by the Secretary of State for Defence in accordance with the MOD Police Act 1987 to provide independent scrutiny and assurance that the MOD Police is exercising its powers and authority lawfully and impartially, and is meeting the standards required of a police force. It is also responsible for dealing with complaints and allegations of misconduct against senior MDP officers.<sup>1</sup>

**What complaints does the MOD Police Committee handle?**

3. The MODPC deals with complaints about the conduct of officers of the ranks of Chief Constable, Deputy Chief Constable or Assistant Chief Constable of the MOD Police (MDP).

4. Complaints against senior officers who have retired or resigned from MDP are also dealt with by the Police Committee.

5. Complaints against officers of the rank of Chief Superintendent and below should be made direct to the MOD Police Professional Standards Department. (See Annex A). Therefore any such complaints received by the MODPC will be acknowledged and then passed to MDP PSD for a recording decision.

6. The MOD Police Committee does not deal with complaints about the direction and control of MDP, such as strategic policing issues or decisions, general policing standards or operational management decisions, unless there are allegations relating to the conduct of one or more Senior Officers.

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<sup>1</sup> Under the Police Reform and Social Responsibility Act, a Police and Crime Commissioner would deal with any complaint made against a Chief Constable, while the Chief Constable would be responsible for dealing with any complaints against a Deputy or Assistant Chief Constable. Since the MOD does not have an elected Police and Crime Commissioner it has been agreed with the Home Office that the MOD Police Committee will remain as the Appropriate Authority for such matters.,

## **How to make a complaint**

7. A complaint is an expression of dissatisfaction with (an individual member of) a police force which is expressed (whether in writing or otherwise) by or a behalf of a member of the public who:

- was the victim of the alleged conduct
- alleges that they have been adversely affected by the conduct even if it was not directed at them;
- claims that they witnessed the conduct.

8. A complaint can be made by someone acting on behalf of any of the above persons, providing that they have given their written consent for the representative to act. This is waived in the case of parents of someone under 16 years old.

9. Under the Independent Office for Police Conduct (IOPC) Statutory Guidance, the partner or a relative of a person serving with the police will not be able to make a complaint on behalf of that person. A partner or a relative of an MDP officer might however legitimately claim to have been adversely affected by the alleged conduct of a senior MDP officer and so become a complainant in his or her own right. The MODPC will record such a complaint, but may consider whether to request dispensation from the IOPC, depending on the nature of the complaint (for example, where it is an attempt to avoid the general rule and so may be an abuse of process).

10. There are several ways to make a complaint about a senior officer;

- contact the MODPC directly by letter, e-mail or telephone (see Annex A);
- via a solicitor who can forward your complaint to the MODPC on your behalf;
- forward your complaint to the IOPC if your complaint relates to a matter in England and Wales, to the Police Investigations and Review Commissioner (PIRC) if your complaint relates to a matter in Scotland, or the Police Ombudsman Northern Ireland (PONI) if your complaint relates to a matter in Northern Ireland.

## **What happens when a complaint is made**

11. When the MODPC receives a complaint about a senior officer in MDP the complaint will be logged and the MODPC must decide:

- whether to record a complaint
- whether it should be referred to the IOPC.

## **Recording a complaint**

12. In most circumstances, the MODPC is required to make a recording decision of a complaint, and to do this within 10 days. There are some exceptions, such as a complaint by a member of staff or by a member of the public who is not within one of the categories mentioned above. If a complaint is not recorded in the time allowed, the complainant may appeal to the IOPC. If the MODPC declines to record it, the complainant will be told why and their right of appeal to the IOPC will be explained.

## **Referral to the IOPC**

13. The MODPC is required to refer certain complaints to the IOPC for matters arising in England and Wales.

14. It is mandatory that any complaints containing allegations of the following should be referred to the Commissioner:

- Serious assault or serious sexual assault
- Serious corruption
- Criminal offence or other behaviour aggravated by discriminatory behaviour
- Serious arrestable offences.

15 The MODPC may also refer complaints to the IOPC if there are other exceptional circumstances that may have a significant impact on public confidence, or where there are other serious concerns.

16. Where a complaint is referred to the IOPC, the IOPC will determine the method of investigation. These options are:

- Local investigation (the MODPC will appoint an Investigating Officer to investigate the allegation or complaint and report back to MODPC.
- Supervised investigation (the Investigating Officer will be approved by the IOPC), who will also agree the terms of reference for the investigation, but the overall responsibility remains with the MODPC)
- Managed investigation (the Investigating Officer will be approved by the IOPC, who will also set the terms of reference for the investigation and have overall responsibility).
- Independent investigation (the IOPC will conduct the investigation independent of the MODPC).

17. Where the MODPC refers a complaint to the IOPC, the complainant will be advised of the decision in writing.

18-. It is anticipated that complaints for senior officers will normally be investigated under the England and Wales system. However, in the case of uncertainty – for example if there is a Scottish dimension to the complaint, the MODPC will decide an appropriate approach based on the specifics of the individual case.

## **How the MODPC deals with recorded complaints**

19. The Chair of the Sub-Committee for Misconduct and Complaints, will consider how the complaint can best be resolved with advice from the Clerk to MODPC. This may be by local resolution, dispensation or investigation.

### Local Resolution

Complainants may be offered the option of resolving a complaint quickly and satisfactorily through local resolution. Complainants must agree that local

resolution should be pursued. The procedure to be followed in local resolution will be agreed with the complainant, and the MODPC will aim to provide a satisfactory and adequate response to the concerns expressed by the complainant.

### Dispensation

In certain circumstances, the MODPC can apply to the IOPC for permission to handle the complaint outside the normal procedure. This could include taking no further action in respect of the matter and is known as Dispensation. Dispensation can be requested where there has been an undue delay in bringing a complaint or where the MODPC cannot contact the complainant.

### Investigation

If the MODPC determines that the complaint should be investigated, it will appoint a person to carry out the investigation. Certain criteria are laid down in relation to the selection of an investigating officer in the case of a complaint against a senior officer, including that he or she may not be a member of the MDP.

The investigating officer will submit a report to the MODPC (or the IOPC in certain circumstances), and the MODPC (or IOPC if appropriate) will decide what action is to be taken in relation to the complaint, including whether the matter should be referred to a misconduct meeting or hearing.

If a complaint against a senior officer is upheld, either in full or in part, there are several remedies such as management action (which could include training or re-training), a written warning, final written warning and dismissal. In certain cases, a complaint may be upheld but no blame attached to a particular officer. In such instances, there may be an opportunity for the MDP as an organisation to learn lessons.

The complainant will be provided with a copy of the investigation report, unless to do so would prejudice criminal proceedings or national security, or it is not in the public interest or would have a disproportionate adverse effect.

The MODPC may apply to the IOPC to discontinue an investigation which has already started, providing their justification for this action, which might include:

- a crucial piece of evidence has been irretrievably lost or damaged;
- the cost of obtaining a crucial piece of evidence is not proportionate;
- non-cooperation from crucial witness(es).

### **Keeping the complainant and the Senior Officer informed**

20. The MODPC will keep complainants informed of the progress made in relation to their complaint. The key points of communication are:

- Acknowledgement of the original complaint within 3 working days
- Decision of how the complaint will be progressed within 10 working days

- On a monthly basis, inform the complainant of the progress of any ongoing investigation;
- The final outcome in relation to the complaint.

21. The MODPC will correspond with the complainant in writing, rather than by e-mail or telephone. However, where an alternative method of communication is requested for accessibility reason, the MODPC will make every reasonable effort to meet this request.

22. The MODPC will keep the Senior Officer informed of progress in a similar way.

### **Complaints in Scotland**

23. The MDP does not have any senior officers permanently based in Scotland, although they may visit on detached duty.

24. In the event of a complaint about the conduct of a senior officer arising from an action or incident in Scotland, this should be referred direct to the MODPC.

25. If the complainant is unhappy with the response offered by the MODPC, the complainant may in the first instance advise the MODPC of this. If the complainant remains dissatisfied with the way the complaint was dealt with or the conclusion reached by the MODPC, the complaint may be referred to the Police Investigations and Review Commissioner for Scotland (PIRC) who may be able to review the way the complaint was handled.

### **Appeals**

#### England and Wales

26. A complainant may appeal to the IOPC against the MODPC's decision not to record a complaint or against the outcome of a complaint that has been investigated by the MODPC or has been supervised by the IOPC. Appeals must be made within 28 days of notification of the appropriate decision directly to the IOPC.

27. Where the investigation of a complaint has been carried out independently, or has been managed by the IOPC, there is no right of appeal.

28. There is no right of appeal against the outcome of the local resolution process. However, a complainant does have a right to appeal to the IOPC if they did not agree to the local resolution process or believes that the process was not carried out in the agreed manner. Appeals must be made within 28 days of the occurrence of what the complainant has alleged has gone wrong with the local resolution process.

#### Scotland

29. See paras 23-25 above. In the event the complaint is being dealt with under the Scottish system, a complainant may request a review of the handling of a complaint about police conduct by the Police Investigation and Review Commissioner for Scotland (PIRC). However, the PIRC is unable to review the handling of complaints

involving allegation of criminal conduct which should be directed to the Crown Office and Procurator Fiscal Service.

30. There is currently no time limit for requesting a review from the PIRC, although the original investigating body should have completed its investigation.

### **Contact details**

31. For contact details please refer to Annex A.

### **Review**

32. This policy will be reviewed annually.

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**Tel: 020 7807 8245**

**MOD POLICE COMMITTEE**  
**SENIOR OFFICERS' COMPLAINTS POLICY**

**CONTACT DETAILS**

1. For complaints against senior officers of the MOD Police, please contact:

**Clerk to the MOD Police Committee**  
**Ministry of Defence**  
**Level 4 Zone B**  
**Main Building**  
**Whitehall**  
**London SW1A 2HB**

**Tel: 020 7807 8245**  
**Email: [karen.feather384@mod.gov.uk](mailto:karen.feather384@mod.gov.uk)**

2. For complaints against officers of any other rank of the MOD Police, please contact:

**Head of Professional Standards**  
**MOD Police HQ**  
**Wethersfield**  
**Braintree**  
**Essex CM7**

**Tel: 01371 854854**  
**Email: [mdp.psdmailbox@mdpqa.mod.uk](mailto:mdp.psdmailbox@mdpqa.mod.uk) [Group email]**

3. For general advice about making police related complaints, please contact:

**England and Wales**

The Independent Office for Police Conduct (IOPC)

Website: <https://www.policeconduct.gov.uk>  
Email: [enquiries@policeconduct.gov.uk](mailto:enquiries@policeconduct.gov.uk)  
Tel: 0300 020 0096 (press 1 at prompt)

## Scotland

If you wish to complaint about how your complaint was handled by the MODPC you should contact:

Website: <http://www.pirc-scotland.gov.uk>

E-Mail: [enquiries@pirc.gsi.scotlandgov.uk](mailto:enquiries@pirc.gsi.scotlandgov.uk)

Tel: Freephone: 0808 178 5577