

Appendix 4 of the GLA Code of Conduct

GLA Guidance on complaints and conduct matters about the Mayor's Office for Policing and Crime and the Deputy Mayor for Policing and Crime

Introduction

1. This guidance deals with complaints and conduct matters about the conduct of a 'Relevant Office Holder'. The Relevant Officer Holder is either the office holder of the Mayor's Office for Policing and Crime (MOPAC), (which is the person holding office as the Mayor of London), or the person appointed to the office of the Deputy Mayor for Policing and Crime (DMPC) (see also the definitions section below). The appropriate regulations are the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 (the Regulations) and nothing in this guidance overrules the provisions of these Regulations.
2. The London Assembly Police and Crime Committee (the Committee) has delegated its functions under the Regulations to the Greater London Authority's (GLA) Monitoring Officer (the Monitoring Officer).
3. Any complaint to the Committee shall be immediately directed to the Monitoring Officer and any other information under the Regulations which relates to a function which the Committee has delegated to the Monitoring Officer will be passed immediately to the Monitoring Officer.
4. The Monitoring Officer will keep the Committee informed of matters relating to the conduct of a Relevant Office Holder and provide the Independent Office for Police Conduct (IOPC) with all such assistance as it reasonably requires.
5. This guidance shall be updated from time to time and shall be read in conjunction with the Regulations and the statutory guidance issued by the IOPC from time to time.

Definitions

6. A "Relevant Office Holder" is the holder of the offices of the Mayor's Office for Policing and Crime and the Deputy Mayor for Policing and Crime, and in relation to any conduct includes a person who:
 - a) holds the relevant office at the time of the conduct but subsequently ceases to hold that office; or
 - b) holds the relevant office at the time when a complaint or conduct matter comes to the attention of the Monitoring Officer but did not hold that office at the time of the conduct.
7. A "complaint" is a complaint about the conduct of a Relevant Office Holder.

8. A “serious complaint” is a complaint made about conduct which constitutes or involves, or appears to constitute or involve, the commission of a criminal offence.
9. A “conduct matter” is where there is an indication (whether from the circumstances or otherwise) that a Relevant Office Holder may have committed a criminal offence. Conduct matters can arise without a complaint being made (for example, legal proceedings).
10. For the purposes of this guidance, reference to “consultation/consult with Committee as appropriate” may include verbal or written updates to the Chair and Deputy Chair of the Committee, and verbal or written updates to the formal meetings of the Committee.

Complaints

11. The following paragraphs 11 to 59 apply only in relation to complaints made about the conduct of a Relevant Office Holder. A complaint, and the way it is handled, is not the same as a conduct matter, and the two processes are separate and distinct.

A: Address for complaints

12. The Monitoring Officer will notify MOPAC (the corporate entity) of the name and address of the Monitoring Officer, to whom complaints by members of the public are to be directed and shall specify how MOPAC will publish such information.

B: Receipt of complaints

13. A member of the public may complain to the following people or organisations, although, except in the case of alleged criminal conduct, complaints are encouraged to be made direct to the Monitoring Officer:
 - a) The Monitoring Officer;
 - b) The Committee;
 - c) The IOPC;
 - d) Directly to the Relevant Office Holders;
 - e) The Commissioner of Police of the Metropolis.
14. Where a complaint is made to the Relevant Office Holder about their conduct, the Relevant Office Holder must tell the Monitoring Officer of the complaint.
15. Where a complaint is made to the Commissioner of Police of the Metropolis, the Commissioner of Police of the Metropolis must tell the Monitoring Officer.
16. The Regulations provide that when a complaint is made to the IOPC about the Relevant Office Holder, the IOPC must tell the Committee (usually via the Monitoring Officer) of the complaint

unless it considers that there are exceptional circumstances to justify notification not being given. Upon receipt, the Monitoring Officer will inform the Committee.

17. The Monitoring Officer will determine, on receipt of information, whether it meets the definition of a “complaint” (see the definitions section above). If the information received does not amount to a “complaint”, the Monitoring Officer will write to the member of the public and explain this and no action will be taken. The Monitoring Officer will also provide an update to the Committee.
18. Following receipt of a complaint about the conduct of the Relevant Office Holder, other than in the following circumstances, the Monitoring Officer must record the complaint in the Register (see paragraph 19 to 21):
 - a) the complaint has or is being dealt with by criminal proceedings against the person whose conduct it was;
 - b) the complaint has been withdrawn.
19. Recording a complaint does not mean that there has been any assessment or consideration of the merits of the complaint or that the complaint has any substance at this stage of the process. Such assessment will be made later in the process.
20. The Monitoring Officer must establish and maintain a Register within which to record all key details about the complaint (the date received, the complainant, a summary of the complaint / the category into which it falls, the date on which it was recorded, an indication of intended action on the complaint and any other information relevant).
21. The Monitoring Officer must notify the Chief Executive of MOPAC that a complaint has been recorded.
22. If the Monitoring Officer does not record a complaint, the Monitoring Officer must tell the complainant of the decision not to record the complaint and therefore to take no action upon it, and explain the grounds on which that decision was made, whether in relation to whole or part of the complaint.

C: Consideration as to whether the complaint is a “serious complaint”

23. This section C is in accordance with the requirements specifically given to the Monitoring Officer by the IOPC and the IOPC’s 2022 guidance¹.
24. Once the complaint has been recorded, the Monitoring Officer will make an initial assessment of the complaint to decide whether or not it meets the definition of a “serious complaint”. In order to assist with the initial assessment, the Monitoring Officer will obtain any information that is readily available. This includes gathering information that is held by the Relevant Office

¹ https://www.policeconduct.gov.uk/sites/default/files/Documents/statutoryguidance/Operational_advice_note_to_police_and_crime_panels.pdf

Holder, the GLA, or any other organisation (to the extent that it is readily available), and may include decision forms, emails, and any other documents that are relevant to the complaint. It may be appropriate to contact the complainant to fully understand the complaint before an assessment can be carried out. Depending on the nature of the complaint, this initial assessment may take time to complete. For the avoidance of doubt, the Monitoring Officer will not create any new evidence, for example, by interviewing witnesses.

25. The Monitoring Officer should look at the conduct which is alleged in the complaint and consider whether that conduct, if proven, would constitute a serious complaint. If it would, then the criteria for mandatory referral is met. The Monitoring Officer is not at that stage able to consider the merits of the complaint, but instead should focus on the nature of what is being alleged. It will not be sufficient for a complainant to simply say that a serious complaint is alleged. However, once the complainant goes beyond that and alleges particular conduct, then the assessment should be whether such conduct, if proven, would amount to a criminal offence.
26. In undertaking this assessment and prior to reaching a view as to whether there is a serious complaint, the Monitoring Officer shall consult the Committee as appropriate and may also consult the IOPC.

D: Referral of a serious complaint to the IOPC

27. If the Monitoring Officer determines from the information and evidence gathered that the complaint is a "serious complaint", the Monitoring Officer will notify the Committee of this and will refer it to the IOPC as soon as is practicable, and in any event not later than the end of the day following the day on which it becomes clear to the Monitoring Officer that the complaint must be referred or the IOPC tells the Monitoring Officer that it must be referred. The fact that a serious complaint is sensitive or urgent does not override the requirement for the Monitoring Officer to undertake the initial assessment before making a referral. The Monitoring Officer should be adequately sighted on the detail of the matter in order to come to an informed decision and decide which criminal offence is alleged. The Monitoring Officer should consider what arrangements are in place to avoid delay in referring urgent or sensitive matters. The need to provide information should be balanced against the timeliness of making the referral.
28. On referring a complaint to the IOPC, the Monitoring Officer should supply all relevant available information (including any information and evidence considered in the initial assessment) that is likely to assist the IOPC when making its decision, together with the referral form.
29. In addition, the Monitoring Officer must give written notification to the complainant and to the Relevant Office Holder concerned of the referral, unless it appears to the Monitoring Officer that notifying the person complained about might prejudice a possible future investigation.
30. The IOPC will decide whether or not to investigate the complaint and will tell the Monitoring Officer in writing of the decision. If the IOPC decides that an investigation is necessary, it will decide whether it should be a managed investigation or an independent investigation.

31. Where the IOPC determines that it is not necessary for it to investigate a complaint, it will refer the complaint back to the Monitoring Officer. The IOPC will tell the complainant and the Relevant Office Holder of this decision.
32. Following any referral back of the complaint by the IOPC, the Monitoring Officer will deal with the complaint in accordance with the section below: Resolution of Complaints.

E: Preserving evidence

33. When a complaint comes to the attention of the Monitoring Officer, the Monitoring Officer must take all appropriate steps to obtain and preserve evidence that is readily available in relation to the conduct in question, both initially and from time to time after that. The IOPC may give the Monitoring Officer directions for obtaining and preserving evidence and the Monitoring Officer must comply with any such directions.
34. Where a complaint is made to the Relevant Office Holder about their own conduct, the Relevant Office Holder must take all appropriate steps to obtain and preserve evidence in relation to the conduct in question, both initially and from time to time after that. The IOPC or the Committee or the Monitoring Officer may give the Relevant Office Holder directions to take steps to obtain and preserve evidence. The Relevant Office Holder must comply with any such directions.

F: Copies of complaints

35. Where a complaint is recorded, the Monitoring Officer shall supply to the complainant a copy of the record made of the complaint and, subject to the following paragraphs, supply to the person complained against a copy of the complaint.
36. A copy of the complaint supplied to the person complained against may be in a form which keeps anonymous the identity of the complainant or of any other person.
37. The Monitoring Officer may decide not to supply a copy of a complaint if they are of the opinion that to do so:
 - a) might prejudice any criminal investigation or pending proceedings; or
 - b) would otherwise be contrary to the public interest.

The Monitoring Officer will consult with the Committee as appropriate in this regard.

38. Where the Monitoring Officer decides not to supply a copy of a complaint, they shall keep that decision under regular review.

G: Disapplication of the Regulations

39. If the Monitoring Officer considers that a complaint which has been recorded (and is not one

that must be referred to the IOPC) is one in respect of which either it should be handled otherwise than in accordance with the Resolution of Complaints section below or no action should be taken, and it falls within the category of complaints set out in paragraph 37, then the Monitoring Officer may instead handle the complaint in whatever manner (if any) they think fit. The Monitoring Officer will consult with the Committee as appropriate in this regard.

40. The categories of complaints are where the Monitoring Officer considers:

- a) the complaint is concerned entirely with the conduct of the Relevant Office Holder in relation to a person who was working in their capacity as a member of the Relevant Office Holder's staff at the time when the conduct is supposed to have taken place;
- b) more than twelve months have elapsed between the incident giving rise to the complaint and the making of the complaint and either there is no good reason for the delay, or injustice would be likely to be caused by the delay;
- c) The matter has already been the subject of a complaint;
- d) The complaint is anonymous, and it is not reasonably practicable to find out a name or address;
- e) The complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints;
- f) The complaint is repetitious.

41. A repetitious complaint is one which is substantially the same as a previous complaint, or concerns the same conduct as a previous conduct matter, contains no fresh allegations which affect the account of the conduct complained of, no fresh evidence, being evidence not reasonably available at the time the previous complaint was made and in respect of which a previous determination or withdrawal of complaint has been made.

42. The Monitoring Officer must notify the complainant that they have decided to handle the complaint in this way.

H: Withdrawal of complaints

43. If the Monitoring Officer receives written notification that the complainant wishes to withdraw their complaint or does not want any further action to be taken in relation to their complaint, signed either by them or a person acting on their behalf, then the Monitoring Officer must record the withdrawal.

44. If a complainant has indicated that they wish to withdraw a complaint but does not provide signed written notification, the Monitoring Officer must write to the complainant to find out whether they wish to withdraw the complaint. If the complainant responds and indicates that they do wish to withdraw the complaint, or if there is no response within 21 days, the complaint should be treated as if a signed written notification of withdrawal had been received. If the complainant responds that they do not wish to withdraw the complaint, the complaint must continue to be dealt with under the Regulations.

45. If the complaint has been referred to the IOPC and has not been referred back to the Committee, the Monitoring Officer must notify the IOPC that they have recorded the withdrawal of the complaint. The IOPC will then decide whether the withdrawn complaint should be treated as a conduct matter and will tell the Committee of the decision.
46. In any other case, the Monitoring Officer must consider whether the withdrawn complaint relates to conduct which should be treated as a conduct matter (i.e. it constitutes or involves, or appears to constitute or involve, the commission of a criminal offence). If it should, it must be recorded and treated as a conduct matter. If not, then no further action needs to be taken under the Regulations in relation to the complaint.
47. The Monitoring Officer shall notify the Relevant Office Holder complained about if:
- a) the Monitoring Officer records the withdrawal of a complaint or the fact that the complainant does not want any further action to be taken in relation to his or her complaint;
 - b) the Monitoring Officer decides that a complaint should be treated as a conduct matter;
 - c) the IOPC decides that a complaint should be treated as a conduct matter;
 - d) the complaint will no longer be dealt with under the Regulations due to the withdrawal.
48. If the Monitoring Officer previously decided not to tell the Relevant Office Holder of the complaint because they believed it may prejudice any criminal investigation, pending proceedings or would not be in the public interest, the Monitoring Officer does not need to tell the Relevant Office Holder of the withdrawal.

I: Resolution of Complaints

Resolution in accordance with the GLA's ethical standards regime – applies to the holder of MOPAC and DMPC where they are a member of the London Assembly

49. A complaint which has been recorded about the office holder of MOPAC or a holder of the office of DMPC who is a member of the London Assembly at the time when the complaint is recorded, and which is not required to be referred to the IOPC, shall be dealt with by the Monitoring Officer as if it was were a written complaint made under the GLA ethical standards regime².
50. The Monitoring Officer shall, as soon as is practicable, inform the Committee of the outcome of the complaint.

Informal resolution – applies where the holder of the office of DMPC is not a member of the London Assembly

² See the Code of Conduct of the Greater London Authority including Appendix 1 Guidance on making a complaint about a GLA member's conduct

51. Where a complaint is made against a holder of the office of DMPC, who is not a member of the London Assembly at the time when the complaint is recorded, the Monitoring Officer shall make arrangements for the complaint to be subject to informal resolution.
52. Informal resolution may include the appointment of a Deputy Monitoring Officer to secure the informal resolution of the complaint.
53. Procedures for informal resolution shall not include a formal investigation of the complaint in accordance with the GLA's ethical standards regime but documents in relation to the complaint and meetings with the person complained against may be required of the person complained against.
54. Where it appears to the Monitoring Officer that the complaint had in fact already been satisfactorily dealt with at the time it was brought to their notice, the Monitoring Officer may, subject to any further representations, treat it as having been resolved.
55. The Monitoring Officer shall, as soon as it practicable, give the complainant and the person complained against an opportunity to comment on the complaint.
56. Where the person complained against chooses not to comment on the complaint, the Monitoring Officer shall record this fact in writing.
57. The Monitoring Officer shall not, for the purposes of informally resolving a complaint, tender on behalf of the person complained against an apology for their conduct unless the person complained against has admitted the conduct in question and has agreed to the apology.
58. Where a complaint has been subject to informal resolution, the Monitoring Officer shall as soon as practicable make a record of the outcome of the procedure and send a copy of that record to the complainant and the person complained against.
59. A Monitoring Officer shall not publish any part of any such record unless they:
 - a) have given the complainant and the person complained against the opportunity to make representations in relation to the proposed publication; and
 - b) have considered any such representations and are of the opinion that publication is in the public interest.

J: Keeping the Police and Crime Committee informed

60. The Monitoring Officer shall provide timely updates to the Committee as set out above in relation to complaints, serious complaints and resolution of them.

Conduct matters

61. The following paragraphs 62 to 84 apply only in relation to conduct matters about a Relevant Office Holder. A conduct matter, and the way it is handled, is not the same as a complaint, and the two processes are separate and distinct. It is also important to acknowledge that a conduct matter could become a complaint. In addition, as set out at paragraph 45 above, a withdrawn complaint could become a conduct matter.

A: Considering whether civil proceedings or other circumstances amount to a conduct matter

62. This section A is in accordance with the requirements specifically given to the Monitoring Officer by the IOPC and the IOPC's 2022 guidance.

63. Where information comes to the attention of the Monitoring Officer in civil proceedings or in other circumstances about the conduct of a Relevant Office Holder, the Monitoring Officer shall consider whether there is a conduct matter.

64. In considering whether there is a conduct matter arising in civil proceedings or in other circumstances, the Monitoring Officer shall gather and consider all information that is readily available. This includes gathering information that is held by the Relevant Office Holder, the GLA, or any other organisation (to the extent that it is readily available), which may include, but is not limited to, decision forms, emails, and any other documents that the Monitoring Officer considers are relevant. Depending on the nature of the matter, this may take time to complete. For the avoidance of doubt, the Monitoring Officer will not create any new evidence, for example, by interviewing witnesses.

65. In undertaking this consideration, and prior to reaching a view as to whether there is a conduct matter, the Monitoring Officer shall consult the Committee as appropriate and may also consult the IOPC.

B: Recording conduct matters arising in civil proceedings

66. Where:

- a. the Monitoring Officer has received notification that civil proceedings relating to any matter have been brought by a member of the public against a relevant office holder, or it otherwise appears to the Monitoring Officer that such proceedings are likely to be so brought; and
- b. it appears to the Monitoring Officer (whether at the time of the notification or at any time subsequently) that those proceedings involve or would involve a conduct matter,

the Monitoring Officer shall record that matter.

67. The Monitoring Officer must notify the Chief Executive of MOPAC that a conduct matter arising in civil proceedings has been recorded.

68. However, the Monitoring Officer does not need to record the matter if it has already been recorded as a complaint or has been, or is already being, dealt with by means of criminal proceedings against the person to whose conduct the matter relates.

69. Civil proceedings involve a conduct matter if—

- a) they relate to such a matter; or
- b) they are proceedings that relate to a matter in relation to which a conduct matter, or evidence of a conduct matter, is or may be relevant.

C: Recording a conduct matter arising in other circumstances

70. If the Monitoring Officer determines that the matter amounts to a “conduct matter”, as defined, the Monitoring Officer will record that matter.

71. The Monitoring Officer must notify the Chief Executive of MOPAC that a conduct matter in other circumstances has been recorded.

72. However, the Monitoring Officer does not need to record that matter if it has already been recorded as a complaint or has been, or is already being, dealt with by means of criminal proceedings against the person to whose conduct the matter relates.

73. The IOPC may direct the Monitoring Officer to record a matter that has come to the attention of the IOPC which is a conduct matter but has not been recorded by the Monitoring Officer.

74. Where the Monitoring Officer records a conduct matter, the Monitoring Officer will refer the matter to the IOPC, in accordance with the procedures set out below for referrals to the IOPC.

75. The Monitoring Officer will establish a Register within which to record all key details about the conduct matter which can be readily accessed and examined by the IOPC, if required.

D: Matters occurring outside of England and Wales

76. Where the conduct did not occur in England and Wales, it is the duty of every Relevant Office Holder to notify the Monitoring Officer, of any investigation, allegation or proceedings in relation to their conduct which would amount to a conduct matter if the conduct took place in England and Wales.

77. Where notification is given under paragraph 76, the Monitoring Officer shall handle the matter in whatever manner they see fit.

E: Referral of a conduct matter to the IOPC

78. Where the Monitoring Officer has recorded a conduct matter, the Monitoring Officer will refer it to the IOPC as soon as is practicable and no later than the end of the day following the day on

which it first becomes clear to the Monitoring Officer that the conduct matter must be referred or the IOPC tells the Monitoring Officer it must be referred. The fact that a recordable conduct matter is sensitive or urgent does not override the requirement for the Monitoring Officer to undertake the relevant determinations before making a referral. The Monitoring Officer should be adequately sighted on the detail of the matter in order to come to an informed decision and decide which criminal offence is alleged. The Monitoring Officer should consider what arrangements are in place to avoid delay in referring urgent or sensitive matters. The need to provide information should be balanced against the timeliness of making the referral.

79. On referring a conduct matter to the IOPC, the Monitoring Officer will supply all relevant available information that is likely to assist the IOPC when making its decision, together with the referral form. This includes any information and evidence obtained during the initial assessment referred to in section A above.
80. In addition, the Monitoring Officer must give written notification to the Relevant Office Holder concerned of the referral, unless it appears to the Monitoring Officer notifying the Relevant Office Holder might prejudice a possible future investigation.
81. The IOPC will decide whether or not to investigate the conduct matter and will tell the Monitoring Officer in writing of the decision. If the IOPC decides that an investigation is necessary, it will decide whether it should be a managed investigation or an independent investigation.
82. Where the IOPC determines that it is not necessary for it to investigate a conduct matter, it will refer the conduct matter back to the Monitoring Officer.
83. Following referral back of a conduct matter, the Monitoring Officer will report the outcome of the IOPC's determination to the Committee. The Monitoring Officer will deal with the conduct matter in such manner (if any) as the Monitoring Officer may determine.

F: Keeping the Police and Crime Committee informed

84. The Monitoring Officer shall provide timely updates to the Committee as set out above in relation to conduct matters and the IOPC's consideration and determination.

Record Keeping

85. The Monitoring Officer shall keep records of:
 - a) every complaint and purported complaint made;
 - b) every conduct matter recorded by the Monitoring Officer arising from civil proceedings or otherwise coming to the attention of the Monitoring Officer; and
 - c) every exercise of a power or performance of a duty under the Regulations.

86. The Monitoring Officer shall report, on a regular basis, the summary details (such as can be reported in public), on the exercise of any and all of these functions to the Committee for monitoring purposes and will include a summary of the matters listed in the above paragraph 85 a) to c).

Provision of Information to the IOPC

87. The Monitoring Officer shall provide to the IOPC all such information or documents specified, and all evidence or other things so specified or described by the IOPC in a notification given by the IOPC to the Monitoring Officer and in a manner and within a time so specified.

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