1.0 Summary of Changes

This procedure has been updated as follows:

- Additional section added at 3.8 regarding Crime Recording;
- New paragraphs added within section 8 regarding data security and retention and disposal of records.

2.0 What this Procedure is about

This procedure informs officers and members of staff of the process to be undertaken when dealing with complaints from the public. The aim is to provide the complainant with the following:

- Greater access to the complaints system;
- A better understanding of the complaints process which is both open and transparent;
- An effective resolution through a proportionate and timely investigation;
- Increased confidence by applying the lessons learnt from a complaints procedure to provide an enhanced quality of service.

In order to facilitate this procedure a single point of contact for misconduct has been appointed within all functional commands.

The appropriate authority for the investigation and adjudication of complaints is specified within the Police Reform and Social Responsibility Act 2011 and will be as follows:

<table>
<thead>
<tr>
<th>Complaint Against</th>
<th>Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non ACPO ranks</td>
<td>Chief Constable</td>
</tr>
<tr>
<td>Assistant or Deputy Chief Constable</td>
<td>Chief Constable</td>
</tr>
<tr>
<td>Chief Constable</td>
<td>Office of Police, Fire and Crime Commissioner for Essex</td>
</tr>
<tr>
<td>Police, Fire and Crime Commissioner</td>
<td>Police and Crime Panel</td>
</tr>
</tbody>
</table>

In the event of a joint complaint the appropriate authority will be decided following negotiations between the parties outlined above.

*Compliance with this procedure and any governing policy is mandatory.*
PROCEDURE – Dealing with Complaints Against the Police

Number: C 3001  Date Published: 5 March 2019

3.0 Detail the Procedure

The force forms relating to the handling of complaints are as follows:

<table>
<thead>
<tr>
<th>FORM NAME</th>
<th>USE</th>
</tr>
</thead>
<tbody>
<tr>
<td>COMP1</td>
<td>Complaint recording</td>
</tr>
<tr>
<td>COMP1a</td>
<td>PSD Assessment of complaint (For PSD use only)</td>
</tr>
<tr>
<td>COMP2</td>
<td>Local Resolution (LR)</td>
</tr>
<tr>
<td>COMP2 Guidance</td>
<td>LR guidance notes</td>
</tr>
<tr>
<td>COMP3</td>
<td>Local Investigation (LI) Workbook</td>
</tr>
<tr>
<td>COMP3a</td>
<td>LI Investigating Officers Report</td>
</tr>
<tr>
<td>COMP3 Guidance</td>
<td>LI guidance notes</td>
</tr>
</tbody>
</table>

3.1 Initial Action

Anyone who wishes to complain about the provision of services by Essex Police should be free to do so. A complaint may be made by any of the following methods:

- In writing - by letter or email;
- By telephone or by text message;
- In person;
- Through an appointed representative with written consent to do so.

Further information on making a complaint can be found by visiting the Essex Police website Compliments and Complaints section or via the Independent Office for Police Conduct (IOPC) website.

Where a complaint is received, the officer or member of staff receiving the complaint should seek to establish the full circumstances.

These complaints may be about the conduct of an officer or member of staff serving with the police or about the policies and procedures which relate to the governance of the organisation. This will include any expression of public dissatisfaction with the service provided or with the manner the person perceives they have been treated by an individual, irrespective of whether the allegation is justified.

A complaint could therefore consist of the following:

- An allegation that an officer or member of police staff has by act or omission behaved in an unjustified, unlawful or unreasonable way towards the complainant;
- An allegation of a specific failure by an officer or member of staff to meet one or more of the recognised standards of professional behaviour;
- An allegation that an identified or unidentified police officer or member of staff has failed to meet the published standards of service to which the complainant is entitled;
- An allegation relating to another matter which does not have a bearing upon the conduct of an individual officer or staff member.
Any complaints received should be recorded on Essex Police Form COMP1 which should then be emailed to the Professional Standards Department (PSD) using email address: concerns@essex.pnn.police.uk

### 3.2 Assessment by the PSD Service Delivery Unit

All complaints received will be subject to an assessment by the Professional Standards Department Service Delivery Unit (SDU) which will include initial fact finding into the circumstances of the complaint allegation to determine the following:

- The Method of Investigation (MOI) (i.e. Local Resolution or Local Investigation);
- Identification of the Relevant Appeal Body (RAB);
- Identification of the Command that will own the complaint investigation.

### 3.3 Allocation to an Investigating Officer

Where the investigation is to be conducted by PSD, the Head of PSD will appoint an Investigating Officer (IO) in accordance with the Home Office guidance. They will ensure the matter is investigated fully and will be responsible for any adjudication.

Where the investigation is to be conducted outside of PSD, the matter will be forwarded to the nominated local command’s designated Appropriate Authority (AA), for allocation of an IO. This will include any matter suitable to for a local resolution or local investigation.

All investigations will be conducted in accordance with the Home Office Guidance – Police Officer Misconduct and the IOPC Statutory Guidance on dealing with public complaints. (For police staff, refer to L1200 protocol).

Officers appointed in this capacity must ensure they are fully conversant with the content of these documents.

### 3.4 Local Resolution Process

In order for a complaint to be suitable to be dealt with by way of a Local Resolution it must satisfy the requirements of the suitability test. A complaint will be suitable for local resolution where:

- The appropriate authority is satisfied that the conduct being complained of would not justify bringing any criminal or disciplinary proceedings; and
- Is satisfied that the conduct complained about would not infringe the person’s rights under Article 2 or 3 of the Human Rights Act 1998.

In seeking a local resolution, the appointed IO should contact the complainant to discuss the issue surrounding the complaint.
The skills required to bring about a local resolution are different from those required for criminal investigations and will include problem solving and customer service. Crucial to the success of any local resolution is a shared understanding of:

- The complainant’s expectations;
- The action considered proportionate in response to the complaint;
- The practical action that can and cannot be taken regarding an individual’s behaviour or force practice.

To enable a shared understanding officers and members of staff should be willing to:

- Listen carefully to the complainant’s concerns and try to understand the circumstances from their point of view;
- Acknowledge that something could have been done differently or handled better; if appropriate;
- Offer an apology on behalf of the organisation as the member of the public has felt the need to complain. Where the apology involves the conduct of an individual, prior consent should be obtained, if appropriate.

This should result in the identification of agreed tasks to resolve the complaint. These will be entered into the action plan contained within Form COMP2. An identified person should be responsible for carrying out each of the tasks within an agreed timeframe.

It is essential the complainant is fully aware of the circumstances supporting the resolution of the complaint using this method.

Every effort must be made to complete the agreed tasks within the timescale. Where this is not possible the complainant should be advised and a new timescale agreed.

Where the complaint is suitable for local resolution but the complainant does not agree to the process then the IO must ensure that a local resolution is the most appropriate way of resolving the complaint before going ahead with any actions without the consent of the complainant. Any local resolution without consent must then be authorised by the local command’s designated Appropriate Authority before being sent to PSD for finalisation.

Once the local resolution is completed the IO should submit the relevant forms as follows:

- Local resolution with consent of complainant – forward Form COMP2 to PSD who will prepare letters on the investigating officer’s behalf and notify the complainant in writing of their decision together with the complainant’s right of appeal;
- Local resolution without consent – forward Form COMP2 to the local command’s designated Appropriate Authority for review.
3.5 Investigation of Complaints

This section of the procedure is intended to provide guidance to officers concerning the investigation of complaints where:

- A local resolution is not appropriate because it does not meet the ‘Suitability Test’ (see 3.4) or it is not considered to be a proportionate way of dealing with the complaint.

In each case the local command’s designated Appropriate Authority should appoint an IO in accordance with the IOPC Statutory Guidelines and Home Office Guidance relating to Police Officer Misconduct. (For police staff, refer to L 1200 Protocol - Police Staff Discipline).

The IO should review the circumstances of the complaint and obtain any available information that is relevant to the complaint.

The IO must assess whether the complaint is subject to “Special requirements”. The definition of Special requirements is:

If at any time during an investigation of a complaint, it appears to the investigator that there is an indication that a person to whose conduct the investigation relates may have:

- Committed a criminal offence; or
- Behaved in a manner which would justify the bringing of any disciplinary proceedings.

then the investigator must certify the investigation as one subject to special requirements.

This assessment will be ongoing during the investigation and may change as and when further information is obtained.

If the matter is deemed to be subject to Special requirements then the IO should forward the details of the complaint and the rationale for their decision to the PSD Complaints and Conduct Manager.

On receipt the PSD Complaints and Conduct Manager will provide suitable written advice to the IO, enabling them to complete a Severity Assessment to determine whether the circumstances amount to a matter of misconduct or gross misconduct.

IO’s are advised to contact PSD should they require further advice.

The IO should then proceed with the complaint and prior to obtaining an account from the officer(s), serve them with a Regulation 16 Notice.

This notice should set out clearly what the allegations are against the individual officers.
If the person complained about is a police staff member, then the IO should seek advice from their HR Advisor or HR Partner to ensure compliance with the police staff disciplinary policy.

The IO must complete forms COMP3 and COMP3a. Form COMP3 Guidance is available to support officers.

On completion the IO should submit COMP3 and COMP3a to the Appropriate Authority for adjudication.

Where NO Regulation notices have been served, the Appropriate Authority is the local Command’s designated Appropriate Authority.

Where Regulation notices have been served, the Appropriate Authority is the Head of PSD.

3.6 Adjudication

Local command designated Appropriate Authorities will be responsible for the adjudication of all local resolutions (without the complainants consent), and local investigations allocated to their Command where NO regulation notices have been served.

Where Regulation notices have been served the Appropriate Authority is the Head of PSD and all relevant forms must be sent to PSD.

It is important to remember that an investigation may conclude that a person’s complaint should be upheld because, in the circumstances, the force did not deliver the service standard expected because of, for example, systemic failings (regardless of the absence of any indication of misconduct or individual officer failings).

In each case determination will be made based on a balance of probabilities.

For local resolutions, and local investigations where no Regulation notices have been served, the determination will be whether the complaint is UPHELD or NOT UPHELD.

Where Regulations notices have been served, the determination will be whether there is a CASE TO ANSWER or NO CASE TO ANSWER.

Where misconduct is apparent, a decision must be taken as to whether the matter can be dealt with by way of immediate management action or whether there is a need to refer to a misconduct meeting or hearing, in accordance with Schedule 3 – Police Reform Act 2002.
Where the investigation involves a serving officer, reference should be made to Home Office Guidance – Police Officer Misconduct for further guidance.

Where the investigation relates to a member of police staff, reference should be made to L 1200 Protocol - Police Staff Discipline.

Following adjudication, local command designated Appropriate Authorities must forward documentation to PSD who will prepare letters on their behalf and notify the complainant in writing of their decision together with the complainant’s right of appeal.

The following forms are required by PSD:

- For a local resolution without consent, a completed form COMP2;
- For a local investigation, completed forms COMP3 and COMP3a.

A clear explanation should be provided to the complainant justifying their decision based on the established facts. Reference should also be made to any subsequent action taken as a consequence of the outcome. This may include an apology where the complaint is upheld, or the identification and progression of a number of learning outcomes.

In some cases the local command’s designated Appropriate Authority may decide an appropriate outcome is best dealt with under Police Performance Regulations by way of the Unsatisfactory Performance Procedure. ((For police staff, refer to L1100 protocol).

### 3.7 Appeals

Schedule 3 of the Police Reform Act 2002 details the rights of appeal available to the complainant under the following circumstances:

- A decision not to record a complaint;
- A decision not to investigate a complaint following dis-application;
- A decision to discontinue the investigation;
- The outcome of the Local Resolution;
- The outcome of the Local Investigation.

Appeals arising from complaints adjudicated by local Appropriate Authorities will be reviewed and determined by the IOPC or Essex PSD Appeals Officer.

All appeals relating to any PSD investigation will be determined by the IOPC.
3.8 Crime Recording

It is recognised that by the very nature of their work, officers and staff will be subject of complaints. Many of them are shown to be false or malicious or are determined have been lawful actions, such as in cases where the use of force is questioned. It is not the intention to record as crimes all such allegations unless or until it is determined there is a criminal case to answer. There is no requirement to record such matters within the general NCRS provisions within 24 hours of the report being made.

The point at which a crime will be recorded will be when:

- The Appropriate Authority determines that there may be a case to answer criminally and requests Crown Prosecution Service advice; or
- The Appropriate Authority determines, in accordance with the DPP Charging Guidance, that a charge or summons or out of court disposal should be issued in relation to a criminal matter; or
- The Appropriate Authority determines, on the balance of probabilities, that there is a case to answer for misconduct or gross misconduct and the nature of the conduct is such that it would amount to a notifiable offence for the purposes of HOCR.

Any allegation of a crime against a police officer or member of police staff which solely relates to his/her off duty activities or is other than in the execution of his/her duties should be dealt with in accordance with the NCRS and the Counting Rules.

4.0 Equality Impact Assessment

- Pending

5.0 Risk Assessment

The provision of a quality service is at the core of policing. A failure to comply with provisions outlined within this document is likely to result in the following:

- A loss of public confidence;
- An increase in community tension;
- Damage to the reputation of Essex Police.

Consequently, complaints must be dealt with in a timely and proportionate manner in securing an effective resolution.

The handling of any complaint can be an emotive issue. Officers and staff visiting complainants should conduct a dynamic risk assessment before carrying out any visit. The minimum requirements will consist of a PNC and intelligence check.

Decision making will follow guidance as provided by the National Decision Model (NDM) and due regard will be given to the principles and standards contained in the Policing - Code of Ethics.
6.0 Consultation

The following have been consulted during the formulation of this document:

- Unison
- Police Federation
- Essex Diversity and Inclusion Manager
- Health & Safety
- Strategic Change Team
- PSD Superintendent
- Policy/Risk
- Superintendents Association
- LPA Commanders
- PSD
- HR

7.0 Monitoring and Review

All complaints are monitored by PSD in relation to:

- Demographic trends;
- Timeliness;
- Complaint outcomes;
- Organisational learning.

This procedure will be subject to review by, or on behalf of, the Head of PSD every 12 months.

8.0 Governing Force policy.
Related Force policies or related procedures

- C 3000 Policy – Professional Standards
- L 1200 Protocol - Police Staff Discipline

8.1 Data Security

Essex Police have measures in place to protect the security of your data in accordance with our Information Management Policy – W 1000 Policy – Information Management.

8.2 Retention & Disposal of Records

We will only hold data for as long as necessary for the purposes for which we collected. Victims/public should be reminded that Essex Police take the protection of personal data seriously as described in the privacy statement www.essex.police.uk/dataprivacynotice.

9.0 Other source documents, e.g., legislation, Authorised Professional Practice (APP), Force forms, partnership agreements (if applicable)

- IOPC Statutory Guidelines 2015;
- Police Reform Act 2002;
- Police (Conduct) Regulations 2012;
- Police (Performance) Regulations 2012;
- Home Office Guidance – Police Officer Misconduct;
- Police Reform and Social Responsibility Act 2011;
- Form COMP1 – Expression of dissatisfaction against a member of the Police Service
- Form COMP1a – Expression of Dissatisfaction Assessment
- Form COMP2 – Local Resolution
- Form COMP2 Guidance – Local Resolution Guidance Notes
- Form COMP3 – Complaint Investigations Work Book
- Form COMP3a – Investigating Officers Report
- Form COMP3 Guidance – Local Investigations Guidance Notes