North Yorkshire Police, Fire & Crime Commissioner

Joint Independent Audit Committee

21 June 2022

Office of the Police Fire and Crime Commissioner – Policy on Unreasonable Complainants and Correspondents

Appeal - Mr Timothy Hicks.

NOT FOR PUBLICATION

1.0 PURPOSE OF THE REPORT

1.1 For Members to deliberate and determine an appeal under the terms of the Policy on Unreasonable Complainants and Correspondents.

1.2 For Members to provide any feedback that would assist the OPFCC for the purposes of the effective and efficient handling of this and any future/similar cases.

1.3 For Members to provide feedback to the Chief Executive & Monitoring Officer as to whether the Joint Independent Audit Committee is the appropriate forum for the hearing of appeals under this Policy. The Policy can be reviewed by the current Chief Executive (having been adopted under the tenure of his predecessor).

2.0 BACKGROUND

2.1 The Policy on Unreasonable Complainants and Correspondents was adopted after the then Interim Chief Executive took up post in July 2016. The Policy is on the OPFCC website and can be found in full at **Appendix 3**.

2.2 Mr Hicks is a journalist who writes for the North Yorks Enquirer, an internet news magazine. The website for the magazine states the following: *'The North Yorks*

North Yorkshire Police, Fire & Crime Commissioner

Enquirer is an internet news magazine covering local, regional and some national news. It provides a forum for citizen journalists working in the public interest to expose wasteful spending, malpractice and corruption in authorities around North Yorkshire and beyond'

The report does not disclose that I am a member of the NUJ and regulated by that body.

I produce three or four articles a month for the NYE. The remainder of my writing is for other organisations and TV Production companies.

The objectives of the NYE are irrelevant to the Policy on Unreasonable Complainants and Correspondents and are entirely consistent with the objectives of both the Commissioner and the Audit Committee.

2.3 Members are asked to note that at the present time, Mr Hicks is the only person who contacts the OPFCC from the North Yorks Enquirer.

I cover crime and policing for the NYE. Having a single point of contact is normal journalistic practice and is for the Commissioner's convenience.

2.4 Mr Hicks resides in Luxembourg. He is not, therefore, a resident of North Yorkshire.

This is irrelevant to the Policy on Unreasonable Complainants and Correspondents, which cannot be applied on the basis of location.

I write for the NYE which is based in North Yorkshire and has a large readership in North Yorkshire. I am currently waiting to retire and will return to the UK in due course.

This personal information should not have been published and disseminated.

2.5 The OPFCC has aligned itself with the practice adopted by North Yorkshire Police and Enable North Yorkshire in not regarding the NY Enquirer as a recognised media outlet. It is not regulated by IPSO.

I have never heard of "*Enable North Yorkshire*" and neither has the NYE's editor.

The Policy on Unreasonable Complainants and Correspondents cannot be implemented to align with another organisation's policy.

I comply with the NUJ's Code of Ethics and I am regulated by that body, but this is not mentioned in the report.

The NYE is the only non IPSO regulated organisation to have this policy applied to it and it is irrelevant to the Policy on Unreasonable Complainants and

Correspondents. The OPFCC Works withother non IPSO regulated organisatioins. Only the NYE has been singled out for this treatment.

Accordingly, it is not the practice of the OPFCC to treat the NY Enquirer's requests for comments as media requests – and therefore, typically, the OPFCC does not respond to requests for comment made by that publication. Whilst the Chief Constable has a similar line to the OPFCC in respect of corresponding with Mr Hicks, it must be recognised that the Unreasonable Complainants and Correspondence Policy is that of the OPFCC and not North Yorkshire Police.

Nevertheless, the Commissioner has simply followed the Chief Constable's policy. North Yorkshire Police and the Police Fire and Crime Commissioner for North Yorkshire are the only police organisations in the UK that have proscribed a non IPSO members.

2.6 Whether or not the OPFCC aligned itself with the Chief Constable's stance, Mr Hicks is at present the only individual who has been made the subject of a Customer Contact Arrangement under the Policy on Unreasonable Complainants and Correspondents.

I am currently the only journalist in the UK that has been proscribed by a Police Fire and Crime Commissioner or a police force. I assert that I have been targeted for proscription because I have persistently questioned the Commissioner and the Chief Constable about the following issues of misuse of police funds for many years:

1. Expense payments to Chief Police Officers for social and hobby activities

1.1. Why were expense payments made to Deputy Chief Constable (DCC) Tim Madgwick for pursuing his private hobby activity of being a Board Member of the Special Olympics Great Britain (SOGB)?

1.2. Why did Chief Constable Maxwell have a trip to watch the Edinburgh Tattoo paid for by expenses?

1.3. Why were expense payments made to Chief Constable Winward for the full cost of attending FBI National Academy Alumni Association (FBINAA) conferences in multiple European cities, which were not disclosed openly on the NYP website with an itinerary and training programme, appear to

be of dubious training value and include time for (variously), sightseeing, shopping, networking and banquets?

2. Expense payments to Chief Officers for flights and Hotels for which no explanation is given and which appear to be unconnected with their police duties

2.1. What was the reason Chief Constable David Jones of North Yorkshire Police visited Northern Ireland in September 2014 and why was it charged to NYP through his expenses?

2.2. What was the reason Chief Constable David Jones of North Yorkshire Police visited Northern Ireland on the 9th and 10th of May 2017 and why was it charged to NYP through his expenses?

2.3. Why did DCC Madgwick have a day trip to Dublin paid for by expenses, for which no explanation is given and which appears to be unconnected with his police duties?

2.4. Why Chief Constable Winward was paid expenses for staying in the Four Star Bristol Marriott Royal Hotel for the weekend commencing Friday 22nd September 2017 to attend an FBINAA conference that started on Monday the 25th of September (cost £354.48), when she should have booked one night for the 25th of September? (The current cost of a single room is £97.00).

3. Misuse of police funds to finance legal action against journalists

3.1. Why did PFCC Mulligan, Chief Constable Jones and Chief Executive Carter authorise hundreds of thousands of pounds to be spent on legal action against NYE journalists for criticising North Yorkshire Police over its failure to arrest Jimmy Savile and Peter Jaconelli?

3.2. Why did PFCC Mulligan, Chief Constable Jones and Chief Executive Carter authorise hundreds of thousands of pounds to be spent on legal action against NYE journalists on behalf of individuals unconnected with the police, who had locked an old age pensioner and World War 2 veteran out of her home while she was ill abroad. Then tried to sell it from

under her and keep the funds for themselves? (In my view an offence of fraud by abuse of position).

4. Authorisation of expenditure of public funds finance legal action against NYE journalists by Chief Officers who had a conflict of interest. One of whom stood to benefit financially from the legal action

4.1. Why did PFCC Mulligan, Chief Constable Jones and Chief Executive Carter authorised hundreds of thousands of pounds to be spent on legal action against NYE journalists, when both Ms Carter and Chief Constable Jones had conflicts of interest in this decision which they did not declare?

5. Unauthorised payments of funds for a Conservative politician

5.1. Why were police funds paid for a Conservative politician to finance legal action, when this was not authorised by a decision notice?

6. Payments to members of staff and Chief Officers without adequate disclosure

6.1. Why were expense payments made to Ms Joanna Carter the former Chief Executive of the Office of the Police and Crime Commissioner for North Yorkshire of £1,937.38 without disclosing what they are for?

6.2. Why Chief Officer's expenses from 2013 onwards were paid without adequate disclosure of what purpose the expenditure was for on the force website, whilst other forces in the UK give full disclosure?

6.3. Why all Commissioner Mulligan's expenses from 2016 onward were paid without adequate disclosure of what purpose the expenditure was for and do not comply with the Elected Local Policing Bodies (Specified Information Order) 2011 as amended?

I further assert that the reason I have been proscribed under the Policy on Unreasonable Complainants and Correspondents is so the Commissioner and Chief Constable can evade their duty to respond to my concerns.
The policy specifically prohibits proscription of a correspondent for being persistent.

2.7 Mr Hicks has a lengthy history of writing to the OPFCC and to North Yorkshire Police.

This is normal. I have been covering crime for Real Whitby and the NYE since 2011.

2.8 Between 2017 and May 2022, 81 cases have been logged in the OPFCC caseworker system. The Policy on Unreasonable Complainants and Correspondents sets a six month review period. The Commissioner has chosen a longer period to inflate the number of contacts it has had from me.

As a general rule of thumb which Members may find of interest for context, it is understood that an MP's office might typically experience in the region of 10 cases for any single individual across a similar period.

This is irrelevant. I am a journalist, not a constituent. The correct measure to apply would be how many enquiries the Commissioner received from the Yorkshire Post in a six month period.

2.9 In due course, the OPFCC took legal advice in relation to the handling of Mr Hicks' correspondence bearing in mind factors including but not limited to the competing imperatives of transparency and accountability, coupled with the effective use of resources and the impact on staff welfare.

2.10 In short, following advice, the volume of correspondence received from Mr Hicks was considered to engage the Policy on Unreasonable Complainants and Correspondents.

The advice has not been released to the Committee.

2.11 On 3 March 2021, Mr Hicks was informed by Evolve Legal Services (acting on behalf of the OPFCC) that he was to be placed on a Customer Contact Arrangement for twelve months. A copy of that letter appears as part of **Appendix 2**.

2.12 Mr Hicks continued to contact the OPFCC. In most cases, the correspondence was not the subject of a response by the OPFCC, in line with the terms of the Customer Contact Arrangement. On some limited occasions, the Chief Executive & Monitoring Officer exercised discretion to respond (for example, where Mr Hicks was exercising or engaging right and expectations about statutory transparency matters).

Some of this correspondence was initiated at the request of Commissioner Allott.

2.13 The Chief Executive & Monitoring Officer arranged for the totality of the correspondence post-dating March 2021 to be reviewed and assessed, over a

period of approximately twelve months since the Customer Contact Arrangement commenced. The review was arranged, with a view to determining whether the Customer Contact Arrangement should be extended for a further period or whether it should be lifted. The Policy on Unreasonable Complainants and Correspondents sets a six month review period. The Commissioner has chosen longer period to make the number of contacts it has had from me appear larger.

2.14 On 6 April 2022, Mr Hicks was informed of this review and was afforded the opportunity to submit any representations to the CEO, who would consider them prior to making his decision. Mr Hicks did not submit any representations and chose to exercise the right of appeal afforded to him under the Policy.

I wanted to submit representations, but the Commissioner allowed five working days for me to submit them and denied my request for a time extension. I therefore did not have enough time to take advice and submit representations and was denied a reasonable opportunity to make representations.

The Policy provides for the Joint Independent Audit Committee to deliberate such an appeal[1].

2.15 The Chief Executive & Monitoring Officer is minded to institute a customer Contact Arrangement for a further twelve month period, based on the totality of the circumstances. The Policy on Unreasonable Complainants and Correspondents sets a six month review period, not a year. So the determination of the Committee is in blatant and fundamental breach of the policy.

2.16 Plainly, should Members consider Mr Hicks' appeal well founded, a different course will be taken.

Should Members consider my appeal well founded, the proscription will have to be lifted and the above questions answered.

2.17 This report endeavours to provide Members with all of the information they need to determine whether Mr Hicks' appeal has merit.

This report does not set out the specific grounds for the appeal contained in my e mail of the 20th of April 2022, or make reference to them.

2.18 The Chief Executive is mindful that Mr Hicks should in principle have 'equality of arms' with the OPFCC in the deliberation of his appeal and that he is unlikely to appear at the meeting or be able to participate.

[1] The Policy wording refers to "the Independent Audit and Ethics Committee" which needs to be updated.

The Commissioner does not know if I will appear for the appeal in person or not. The Commissioner offered the opportunity of postponing the appeal to the next meeting and when I indicated that would be my preference, the hearing went ahead anyway. The time and place of the hearing was withheld from me until the day before the hearing. I had an appointment at that time and no alternative or adjournment was offered. I was therefore deliberately prevented from appearing by link at the appeal hearing.

It follows that whilst the Chief Executive is very happy to amplify any aspect of this report or the appendices at Members' request, Members are invited to determine the matter on the papers to the maximum extent.

2.19 It is respectfully suggested that Members deliberate this item in private session, given that Mr Hicks has not offered consent to the disclosure of his correspondence in the public domain (save to the extent that such consent can be implied from his publication of some of its content in the NY Enquirer).

I was not asked for my consent. I assert that this report has not been published to avoid admitting that the Commissioner is proscribing a journalist for enquiring into allegations of misuse of public funds.

3.0 **KEY ASPECTS OF THE CORRESPONDENCE**

3.1 Mr Hicks received his letter from Evolve Legal Services in March 2021 and acknowledged receipt of it. He was made aware that the arrangement would not prevent him from accessing the complaints system or seeking information by other lawful means, such as FOI requests. All other correspondence would be logged but would not be the subject of a response.

3.2 The review conducted by the OPFCC in March 2022 revealed that despite the terms of the customer contact arrangement, Mr Hicks had emailed the office 48 times between the 6 March 2021 and 23 March 2022. The content of these emails were not in relation to police complaints or FOI requests. The Policy on Unreasonable Complainants and Correspondents sets a six month review period. The Commissioner has chosen longer period to make the number of contacts it has had from me appear larger.

It is important to note that 22 of the 81 cases recorded on our caseworker system are from this period alone.

This is contradictory. Is the number of contacts alleged by the Commissioner 22, 48 or 81?

3.3 The themes raised in correspondence are often cumulative but typical themes/subjects are:

3.3.1 Alleged breach of coronavirus regulations by NYP officers.

NYP Officers breached the coronavirus regulations and the Chief Constable refused to take action against them, while fining members of the public. See NYE coverage.

3.3.2 Requests for media comment in relation to Julia Mulligan.

This is in relation to expenses, see above.

3.3.3 Requests for media comment on other matters.

This is non-specific and should be detailed in the report. It relates to concerns about the expenses of Mrs Joanna Carter, Deputy Chief Constable Madgwick, Chief Constable Winward and two prominent Conservative politicians. See above.

3.3.4 Chief Officer expenses mainly but not wholly in relation to former Chief Constable Dave Jones.

My enquiries about expenses do <u>not</u> mainly relate to Chief Constable Jones. See above.

3.3.5 The death of a lady in Scarborough who was identified as a sex worker who he has named as Hope.

For three years the Chief Constable refused to follow up on new witnesses traced by the NYE into a murder in 1979.

The policy specifically prohibits proscription of a correspondent for being persistent.

3.4 Notable 'spikes' in correspondence were noted after the election of Commissioner Philip Allott, and throughout October and November 2021.

Clearly a local internet news magazine has to cover the election of the new Police Fire and Crime Commissioner. This is normal and part of the democratic process. Commissiopner Allott gave me an interview and initially engaged in correspondence. He also contacted me with a press release when the vote of no

confidence was raised. So this correspondence was at the request of the Commissioner.

3.5 The OPFCC has written to Mr Hicks 6 times during the duration of the last 12 months, including to remind him of the terms of the Customer Contact Arrangement. Members will note that after election of Commissioner Allott, Mr Hicks was specifically reminded of the terms of the Arrangement. Commissiopner Allott contacted me with a press release when the vote of no confidence was raised. So this correspondence was at the request of the Commissioner.

3.6 The Chief Executive's provisional view, subject to Members deliberations on Appeal, is that a similar volume of correspondence has been generated during the period of the Customer Contact Arrangement, as was received in the previous year. The Commissioner's Chief Executive should not be expressing personal views in an appeal against proscription of a journalist.
Whilst the Customer Contact Arrangement has not caused Mr Hicks to moderate the frequency or persistence of his correspondence, it has reduced the impact upon the OPFCC dramatically. The Commissioner has used the policy to evade questions about misuse of public funds that she has a duty to address. It is always easier to ignore difficult issues than respond to them.

3.7 The OPFCC is a small team, with limited resources and a broad range of duties to perform for the public of North Yorkshire and York as well as more broadly regionally and nationally.

3.8 We handle large volumes of correspondence both of a complaints and recognition nature and of a 'constituency casework' nature. The Chief Executive's view is that no one single correspondent should be permitted to absorb so much resource as to significantly affect (or risk undermining) the service we can provide to those who seek our intervention and assistance.

3.9 The Policy is drawn with those matters in mind, Sections 4, 5 and 6 comprehensively balance the considerations for the OPFCC on the one hand, with the impact upon the individual on the other. This report does not set out the specific grounds for the appeal contained in my e mail of the 20th of April 2022.

3.10 In the event that a further Customer Contact Arrangement is imposed, care will be taken to read Mr Hicks correspondence and for it to be reviewed at an

appropriate level of seniority within the OPFCC paid service, so that we do not overlook any significant matter of substance – a risk to individual or community safety, or a statutory transparency or legal compliance matter, for example. Appropriate action will be taken if those matters are engaged.

3.11 This process can be accommodated as part of the existing correspondence triage system for all incoming correspondence to ensure that it is read and assigned to the relevant person.

3.12 **Appendix 1** sets out the correspondence during the period of approximately one year since the Customer Contact Arrangement has been in place.

3.13 **Appendix 2** sets out the correspondence exchanged with Mr Hicks about the review of the Customer Contact Arrangement, as well as in relation to the appeal. It includes the matters Mr Hicks has asked Members to consider in support of his appeal. He may of course choose to submit further material in advance of (or during) the meeting.

This report does not set out the specific grounds for the appeal contained in my e mail of the 20th of April 2022.

3.14 **Appendix 3** sets out the terms of the Policy on Unreasonable Complainants and Correspondents in full.

3.15 **Appendix 4** sets out the Customer Contact Arrangement as articulated to Mr Hicks on 3 March 2021.

4.0 DECISIONS REQUESTED

4.1 For Members to determine Mr Hicks' appeal against the institution (in practice, the re-institution) of a Customer Contact Arrangement.

4.2 For Members to provide feedback to the Chief Executive about any aspect of the handling of this case to date.

4.3 For Members to assist the Chief Executive with the review and update of the Policy on Unreasonable Complainants and Correspondents, including whether Members feel that the JIAC is the appropriate appeal route in future.

5.0 AUTHOR

North Yorkshire
Police, Fire & Crime
Commissioner

Simon Dennis

Chief Executive & Monitoring Officer

Whilst the report has been prepared by the Commissioner's Chief Executive, it represents her policy and she is responsible for it.

14 June 2022

REMAINDER OF PAPERS NOT PUBLISHED FOR REASONS OF SPACE