



Specific Privacy Notice: COMPLAINTS

1st December 2020. Version 0.2

Introduction

This Privacy Notice has been created in accordance with the Requirements of the General Data Protection Regulation 2016 in order to make it easier for you to understand what personal data Lancashire Constabulary may seek to collect and hold about you in relation to the [complaints procedure about a member of Lancashire Constabulary staff](#).

It meets the requirements placed upon the Chief Constable by the General Data Protection Regulation (Articles 13 and 14) in relation to general processing and the Data Protection Act 2018 (Section 44) in relation to law enforcement processing.

It should be read in conjunction with the Force's General Privacy Notice which can be accessed from the home page of Lancashire Constabulary's internet site: this high-level General Privacy Notice provides you with complete details of the rights you have relating to the personal data we hold about you now and any personal data we might collect about you in the future.

If you have received a hard copy of this Notice and do not have access to the internet but require a copy of the Lancashire Constabulary Privacy Notice please contact the Lancashire Constabulary Data Protection Office (contact details below) and they will provide a copy to you.

The Professional Standards Department (PSD) is split into a number of different business areas, including; Vetting Team, Complaints & Hearings Team, Investigations Team and the Integrity and Anti-Corruption Team (IACT).

- This Privacy Notice relates to Investigations and Complaints.
- This Privacy Notice does not relate to IACT who deal with any concerns of wrongdoing, unethical behaviour, or suspected corrupt activity by those who work for, or on behalf of, the Constabulary.
- This Privacy Notice does not relate to the Vetting Team who deal with police / finance checks for potential police staff.

For what purpose(s) is my personal data intended to be processed by Lancashire Constabulary?

Complaints & Investigations

The Complaints and Hearings Team is responsible for handling all complaints which come into the Professional Standards Department.

If the result of the complaint is likely to result in either criminal or misconduct proceedings, these are passed to the Reactive Investigations Team.

The PSD Reactive Investigation Team deal with:

- public complaints where disciplinary or criminal proceedings may be justified,
- Death or Serious Injury (DSI) investigations
- identifying opportunities for officers to learn and develop by referring them to the Reflective Practice Review Process.

The primary legislation for handling complaints is the [Police Reform Act 2002](#) – this sets out the procedures for Police, IOPC and PCC. In February 2020 new [Police Complaints & Misconduct Regulations 2020](#) went live and the [IOPC Statutory Guidance 2020](#) sets the legislation out in a user friendly format.

- The threshold standard for Misconduct has increased and only breaches of the Standards of Professional Behaviour that would attract a written warning or greater would be deemed to be Misconduct.
- Lower level breaches of the Standards of Professional Behaviour and breaches of the Code of Ethics will be dealt with by divisional Supervisors as Reflective Practice.

What is Lancashire Constabulary's legal basis for processing my personal data?

The General Data Protection Regulation requires specific conditions to be met in order to ensure that the processing of personal data is lawful.

Personal Data

The relevant conditions for the purpose of processing personal data are:

GDPR Article 6(1)(c) processing is necessary for compliance with a legal obligation to which the controller is subject:

- [The Police Reform Act 2002](#)
- [Police \(Complaints and Misconduct\) Regulations 2020](#)

GDPR Article 6(1)(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.

- Section 8 (c) of the Data Protection Act sets out that such a task must be necessary for the performance of a function conferred by an enactment or rule of law.

The relevant pieces of legislation include those mentioned above, as well as:

- [The Policing Protocol Order 2011](#) which states that the Chief Constable is responsible for maintaining the Queen's Peace and is accountable to the law for the exercising of police powers and to the PCC for delivering of efficient and effective policing, management of resourcing and expenditure by the police force.
- [The Police Reform and Social Responsibility Act 2011, Sch 2. \(7\)](#) provides that a Chief Constable may do anything which is calculated to facilitate, or is conducive to, the exercise of the functions of a Chief Constable, the delivery of efficient and effective policing, and managing complaints.

Special Category Personal Data

As part of the equality monitoring obligations, complainants are asked to provide some special category data, but this is not mandatory. This is lawfully process under GDPR Article 6(1)(a) the data subject has given consent by providing this voluntarily.

The complaint itself may include details of Special Category data and the relevant condition for processing this is:

GDPR Article 9(2)(g) – processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject

[Schedule 1 part 2 of the DPA](#) details the substantial public interest conditions, relevant paragraphs for this purpose are:

- 10 Preventing / detection unlawful acts
- 11 Preventing the public against dishonesty
- 12 Regulatory requirements relating to unlawful acts and dishonesty etc

As per the requirements of this schedule, an [Appropriate Policy Document](#) is in place.

Criminal Conviction and Offences

As part of a PSD complaint, previous criminal allegations and offences may be considered. In order to lawfully process this the following is relied upon:

[Section 10 \(5\) of DPA](#) requires that [Article 10 of GDPR](#) is fulfilled and a schedule 1, [part 1](#), [part 2](#) or [part 3](#) condition is met. These have been met as described above.

Law Enforcement Processing

- **Personal data**

Should the misconduct investigation result in a criminal offence being investigated, the information is then lawfully processed under part 3 of the Data Protection Act – Law Enforcement. In these circumstances the legal basis for processing is as follows:

[s.35 of the Data Protection Act](#) (2)(b) necessary for performance of task carried out for that purpose by competent authority.

- **Special Category data**

Additional conditions must be met if special category data is included

[s.35 of the Data Protection Act \(5\)\(a\)](#) the processing is strictly necessary for the law enforcement purpose.

s.35 (5)(b) requires that a [Schedule 8](#) condition is met – and in these circumstances the following are relied on:

- Schedule 8(1) (a) necessary for the exercise of a function conferred on a person by an enactment or rule of law, and (b) is necessary for reasons of substantial public interest
- Schedule 8(2) necessary for the administration of justice
- Schedule 8(4) Safeguarding of children and of individuals at risk

As per the requirements of s35 (5)(c), an [Appropriate Policy Document](#) is in place.

What are the categories of personal data collected?

Complaint details can be collected by post, in person, by phone or via Lancashire Constabulary's external online reporting system. We collect information about the complaint that is limited to that which is deemed proportionate and necessary to allow an investigation to commence. Each complaint will be different and if further details are required these will be requested by the investigating officer. As well as complaint details, we also collect contact details including name, DOB, address and email/phone.

Individuals are also **asked** to provide some personal data to allow Lancashire Constabulary to understand and monitor performance in providing a fair service and to enable us to meet our legal obligations in relation to diversity and equality:

- Gender
- Employment type
- Ethnicity

How long will this personal data be retained by Lancashire Constabulary?

As detailed in the [Lancashire Constabulary Retention Schedule](#), complaint records are retained in line with the National Police Chiefs Council Guidance on the Retention of Police Records and are retained for six years from the closure of the investigation or six years from the end of any sanction if the matter resulted in disciplinary proceedings for any officer or staff member.

The record may be retained beyond six years at the discretion of the Professional Standards Department where the officer or staff member has received further complaints since the last incident and the complaints show a pattern of behaviour.

Who will my personal data be disclosed to by Lancashire Constabulary?

As per the [Police Complaints & Misconduct Regulations 2020](#) and complementary guidance, all complaint details will be shared for the purposes of a review in line with the regulatory framework between the Independent Office for Police Conduct (IOPC), the Lancashire Office of the Police and Crime Commissioner (OPCC) and Lancashire Constabulary.

Where complaints relate to further criminal matters, information may be shared under the Criminal Justice process with the Crown Prosecution Service.

Your rights

Amongst other rights, you have a right to [request a copy](#) of personal information that Lancashire Constabulary holds about you.

Further details of all your rights can be found within the general [Privacy Notice](#) referred to above.

The person who determines the purpose and means by which your personal data is processed) is :

Chief Constable of Lancashire Constabulary
Lancashire Constabulary
HQ
Saunders Lane
Hutton
PR4 5SB

The contact details of Lancashire Constabulary's Data Protection Officer

The Data Protection Officer
Lancashire Constabulary
Police Headquarters
Saunders Lane
Hutton
PR4 5SB

Email: data.protection@lancashire.police.uk

If you wish to Complain

The Information Commissioner is the independent regulator responsible for enforcing the Data Protection Act and advising on privacy rights. The information Commissioner's Office contact details are as follows:

The Information Commissioner's Office can be contacted as follows:

Telephone: 0303 123 1113

Website: <https://ico.org.uk/make-a-complaint/>

Mail: The Information Commissioner's Office
Wycliffe House
Wilmslow
Cheshire
SK9 5AF