

Sussex Police and Crime Commissioner

An investigation into an alleged breach of
the Representation of People Act 1983 by
Sussex PCC Katy Bourne

Independent investigation report

Investigation information

Investigation name:	Sussex PCC
IPCC reference:	2016/071078
Investigation type:	Conduct

IPCC office:	Croydon
Lead investigator:	Kilian Flooks
Case supervisor:	Dilvinder Norris
Commission delegate:	Sarah Green

Status of report:	Final
Date finalised:	20/01/2017

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FINAL

Introduction

The purpose of this report

1. I was appointed by the IPCC to carry out an independent investigation into the alleged actions of Sussex Police and Crime Commissioner (PCC) Katy Bourne in the run up to the PCC elections in Sussex on 5 May 2016.
2. A complaint was received from a member of the public who alleged the Sussex PCC, Katy Bourne, made a false statement during her campaign to be re-elected in May 2016. Mrs Bourne is alleged to have posted a comment to social media on 4 May 2016, the day before the election, stating she had not claimed any allowances or expenses during her term in office. This statement would contradict figures published on the Sussex PCC's own website showing she had claimed expenses totalling £385.50 during her first term in office.
3. This came to the attention of the IPCC on 9 August 2016 as a complaint referral. The IPCC can only investigate Police and Crime Commissioners where there is an indication that a criminal offence may have been committed. Because there is an indication a criminal offence may have been committed, this is being treated as a conduct investigation.
4. This is my report for the Commission. It summarises and evaluates the evidence, refers to relevant documents and, where necessary, makes factual findings. In my conclusions I will:
 - a) set out the facts that have been established, the sequence of events and their consequences,
 - b) draw attention to any lessons which may need to be learned by any organisation related to the investigation about which the commission delegate may wish to make a recommendation,
 - c) provide the Commission with sufficient information, and if appropriate express a view about whether it should refer any subject of the investigation to the CPS.
5. It is intended that, for the purposes of this report, the powers and obligations of the Commission will be exercised by the Commissioner, Sarah Green.
6. The Commissioner will also decide whether to make a referral to the Crown Prosecution Service (CPS).

The investigation

Terms of reference

7. The terms of reference for this investigation were approved by Sarah Green on 31 August 2016. The terms of reference specific to this investigation are:

1. The investigation relates to the alleged conduct of relevant office holder Katy Bourne, the Police and Crime Commissioner for Sussex.
2. To investigate the pre-election actions of Katy Bourne, specifically:
 - a) whether she knowingly posted a false declaration on social media stating she had not claimed expenses during her term in office, despite having previously claimed £385.50;
 - b) whether the purpose of her social media post was to influence the outcome of the Sussex Police and Crime Commissioner elections on 5 May 2016;
 - c) whether her social media post had any bearing on the result of the Sussex Police and Crime Commissioner elections on 5 May 2016.
3. To prepare a final report which indicates whether, in the opinion of the investigator, a criminal offence may have been committed by the relevant office holder. On receipt of the final report, the Commissioner shall determine whether the report should be sent to the Director of Public Prosecutions.
8. This investigation will not look at Mrs Bourne's expenses specifically as the IPCC has no concerns in relation to these.

Subjects of the investigation

9. The Sussex Police and Crime Panel referred this investigation to the IPCC because, in their opinion, there was an indication that the Sussex PCC may have committed a criminal offence.
10. An individual whose conduct is under investigation is categorised as a subject of the investigation. A notice of investigation must be served on all subjects, informing them of the allegations against them.
11. Mrs Bourne was notified on 2 September 2016 that she was the subject of a criminal investigation. She was interviewed under criminal caution on 27 September 2016 at the IPCC offices in Croydon.

Policies, procedures and legislation considered

12. The following legislation and policies were considered:
 - Representation of the People Act (RPA) 1983 (Section 106)
 - Electoral Commission - Guidance for candidates and agents: Part 4 of 6 – The campaign
13. Part 1 of Section 106 of the RPA states:

“A person who, or any director of any body or association corporate which –

 - (a) before or during an election,

(b) for the purpose of affecting the return of any candidate at the election, makes or publishes any false statement of fact in relation to the candidate's personal character or conduct shall be guilty of an illegal practice, unless he can show that he had reasonable grounds for believing, and did believe, that statement to be true."

14. Expense claims may be seen to straddle the personal and the political. Whilst expenses are incurred in the course of duty, they are reimbursed to an office holder as private funds. Expenses claims therefore touch on the trustworthiness and integrity of the office holder. By making a statement that she had not claimed any expenses during her first term in office Mrs Bourne appears to be demonstrating the way in which she conducted herself in office and giving an impression of her character and values. Consequently, the statement may be considered to relate to her personal conduct.
15. The Electoral Commission document refers to section 106 of the RPA by stating candidates must not, "Knowingly make a false statement about the personal character of another candidate." Further guidance later in the document states candidates must not, "make or publish a false statement of fact about the personal character or conduct of a candidate in order to affect the return of a candidate at an election."

Summary of the evidence

16. During this investigation, a volume of evidence was gathered. After thorough analysis of all the evidence, I have selected the evidence I think is relevant and answers the terms of reference for this investigation. As such, not all the evidence gathered in the investigation will be referred to in this report.
17. However, the methodology of the investigation, including key decisions that were made, strategies that were set, and details of people referred to in this report are included in the attached appendices.

Evidence provided by the complainant

18. The complainant is referred to as X in this report in order to protect his identity. X attended the IPCC offices on 14 September 2016 where he was interviewed to obtain further details.
- S1 19. X stated he was browsing the social media website, Facebook, on 4 May 2016, the day before the Sussex PCC election. He saw a sponsored post from the Facebook account, "Katy Bourne for Sussex Police & Crime Commissioner".
- S1 KMF/3 20. X looked through the comments under the post and noted one said, "I have not claimed any allowances or expenses during my term in office. #PublicMoney". X was concerned by the content of the post as it was contrary to information he had previously seen on the Sussex PCC website showing that she had made claims for expenses. This had been the subject of a freedom of information request he had made earlier in the year.

- S1
KMF/2
21. At some time between 5pm and 9pm, he used his mobile phone to take a photograph of the post attributed to Mrs Bourne. Copies of the screenshots were provided to the IPCC. The screenshot shows the comment was posted from the “Katy Bourne for Sussex Police & Crime Commissioner” account. The screenshot does not have a time attached to it but refers to the comment being made, “1 hour ago”.
- S1
KMF/3
22. X provided further documentation which contained details of Mrs Bourne’s expenses, various correspondence between X and the Office of the PCC regarding a freedom of information request about her expenses, and further correspondence regarding the Sussex PCC unrelated to this investigation. It also contained further screenshots taken of a Facebook post from the “Katy Bourne for Sussex Police & Crime Commissioner” account and comments that X claimed were part of the same thread as well as correspondence X had with the Office of the PCC.

Evidence provided by Katy Bourne

- D27
23. Katy Bourne was interviewed under criminal caution at the IPCC offices in Croydon on 27 September 2016.
- D27
D28
24. She confirmed she had been in the role of PCC for Sussex since November 2012 and that she has continued in this role after being re-elected on 5 May 2016.
25. When asked, she understood Section 106 of the RPA and what it meant.
- D27
D28
26. She stated that the Facebook account, “Katy Bourne for Sussex Police & Crime Commissioner” was a political one she had set up for campaigning. It is one of three Facebook accounts she holds, having in addition an official PCC account and a personal one.
- D27
D28
KMF/5
27. She wrote and posted a comment from her political campaigning account stating, “I have not claimed any allowances or expenses during my term in office. #PublicMoney”, at 5:35pm on 5 May 2016. She provided a photograph of the comment she made. The photograph shows a time stamp under the comment of 5 May at 5:35pm. She could not confirm what original Facebook post her comment had been posted under; whilst she had taken out sponsored posts on Facebook during her campaign she could not remember if her comment had been entered under a post that had been sponsored.
- D27
D28
28. She recalled that on 5 May, there was interest in the national press in relation to election expenses. As such, there were many comments on her Facebook page in relation to this. She was having a conversation with the people of Sussex about a Sussex issue; her Facebook post was therefore telling her constituents that she had not claimed any expenses for travel within Sussex.
- D27
D28
29. She remembered claiming the sum of £385.50 for travel expenses. This information was published on the Sussex PCC website and was not information she was trying to hide. The expenses she had claimed were for travel outside of

Sussex and she accrued the sum of £385.50 between January and September 2013.

- D27
D28
30. Mrs Bourne was challenged in relation to the accuracy of the comment she had posted considering it stated she had not claimed “any” expenses during her term in office when, by her own admission, she had claimed sum of £385.50. She maintained that she had not posted a false statement as her comment was actually referring to travel within Sussex, she had not claimed for anything inside Sussex. She felt this should have been apparent as “I was having a conversation with people in Sussex on the day of the election” and was, “having a Sussex conversation with Sussex people”.
- D27
D28
31. When challenged further about whether it was agreed that her post was misleading, considering she had claimed expenses, she replied that her post was not intended to mislead or deceive anybody.
- D27
D28
32. Ms Bourne did not make any expense claims between September 2013 and her re-election in May 2016. She stated this was because she had made the decision to stop claiming for travel outside of Sussex as well.
- D27
D28
33. When asked whether she posted her comment to Facebook to increase her support for the election she replied that she did not; she was simply having a conversation with the people of Sussex.
- D27
D28
34. Because she had increased her electoral majority, she did not feel her Facebook post could have altered the result of the election. She felt that she received a lot of good support throughout her campaign and the election result reflected this. She did however say that she was not confident she would be re-elected as no candidate ever can be.

Evidence provided by [REDACTED]

- S3
35. The IPCC interviewed [REDACTED], the Senior Governance Manager at the Office of the Sussex PCC, on 10 October 2016.
- S3
KMF/7
36. The IPCC provided a list of expenses it had previously received that Mrs [REDACTED] was able to verify. The list of expenses detailed 12 train fares covering travel from Sussex to London between 23 January 2013 and 25 September 2013. These expenses total £385.50. The list also contained a claim of £223.00 for a train fare from Sussex to Birmingham that Mrs Bourne had refunded in March 2016.
- T58
37. As the list of expenses only gave the start point as Sussex and end destination as London, the IPCC sought to find out the exact start and end points of each journey. Mrs [REDACTED] confirmed in correspondence that all 12 journeys were from Haywards Heath in Sussex to London Victoria.

Other evidence obtained

- T2
D33
38. The IPCC have been unable to find the Facebook comment referred to in X’s complaint. A review of the Facebook account, Katy Bourne for Sussex Police & Crime Commissioner, revealed one post where the comments cannot be viewed.

As comments can normally be viewed under a Facebook post the IPCC cannot explain why this is not the case for the post under which it is suspected Mrs Bourne's comment was made. However, Mrs Bourne has acknowledged both that she made the comment and its content.

39. Election results for the Sussex PCC elections on 5 May 2016 show Mrs Bourne, the Conservative candidate, received 114,570 first preference votes and 24,765 second preference votes; a total of 139,335 votes. This was an increase on her previous majority.
40. Michael Jones was the Labour candidate and received the second highest proportion of votes. He received 61,017 first preference votes and 25,375 second preference votes; a total of 86,392 votes.
41. The election results show Mrs Bourne won the Sussex PCC election by a majority of 52,943 votes.
- T55 42. The IPCC contacted the Electoral Commission in order to ascertain the number of votes cast in Sussex after 5:35pm. They referred us to [REDACTED] who is the Electoral Services Manager with Wealden District Council. She reported that votes are not time stamped so ascertaining the number of votes cast after a certain time is not an easy task.
- T55 43. However, Mrs [REDACTED] noted some polling areas reported the number of votes cast per hour in order to ensure there were sufficient resources at polling stations. This was carried out in six of the thirteen voting areas: Eastbourne, Horsham, Lewes, Rother, Mid Sussex and Wealden. From these six voting areas she was able to state that on average, 22.74% of votes had been cast in these areas after 5pm.
- T55 44. Mrs [REDACTED] applied the same percentage to the total number of votes cast in all of Sussex. From this, her estimate was that 64,406 votes were cast in the county after 5pm.

Analysis of the evidence

45. In order to reach my findings it was necessary for me to analyse and evaluate the evidence.
46. Since this case is a criminal investigation, I am required only to form an opinion about whether there is an indication that the person subject to the investigation has committed a criminal offence. In doing so I will not reach findings of fact that would be conclusive.

Did Katy Bourne knowingly post a false declaration on social media?

- D27
D28
KMF/5 47. Katy Bourne stated she wrote and posted the comment, "I have not claimed any allowances or expenses during my term in office. #PublicMoney". In addition to this, she accepted that she had claimed expenses in the sum of £385.50 and remembered doing so; the details of her expenses had been published on her

website for the purposes of transparency. Mrs Bourne did not consider the post she made was false as she was referring to claiming for travel expenses within Sussex. She believed this was clear as she was having a conversation on Facebook with local people; therefore her conversation was only pertinent to issues affecting people in Sussex.

D27
D28

48. Had Mrs Bourne's Facebook comment been entered under a sponsored post there would have been a strong indication the people who saw it and commented on it were in Sussex. This is because a sponsored post can be limited to a certain geographic area. Mrs Bourne was unable to confirm, when questioned, whether she had posted her comment under a sponsored post. There is no obvious way Ms Bourne could have known where the people commenting on her post were from.

D27
D28

49. Even if the people with whom Mrs Bourne was corresponding on Facebook did all live in Sussex, it Mrs Bourne's account of her post appears to assume that they would be interested only in expenses claimed for travel within the county. It could reasonably be argued that voters, who are taxpayers, may be likely to want to know about her expenses in their entirety as these come out of public funds.

S3
KMF/7
T58

50. Mrs Bourne's Senior Governance Manager, [REDACTED], confirmed a total of £385.50 had been claimed for train travel from Sussex to London; this was between Haywards Heath and London Victoria. Haywards Heath is approximately 13 miles from Gatwick Airport, which lies on the West Sussex/Surrey border, and 39 miles south of London Victoria. Therefore, about one-third of each train journey for which Ms Bourne claimed expenses was for travel within the county of Sussex.

D27
D28
KMF/7
KMF/5
KMF/2
KMF/3

51. Based upon the screenshots provided by both parties, none of the comments before or after Mrs Bourne's appear to demonstrate any context indicating she was only referring to expenses claimed for travel within Sussex. The evidence would therefore indicate that there are inconsistencies in Mrs Bourne's explanation that she was only referring to never claiming for travel within Sussex and having a conversation with Sussex people.

D27
D28
KMF/7
KMF/5
KMF/2
KMF/3

52. It would appear that the key word within Mrs Bourne's Facebook comment was "any". She posted that she had not claimed "any" expenses during her time in office. A member of the public could reasonably conclude that this meant she had never claimed expenses during her time as a PCC; either for expenses incurred inside or outside the county of Sussex. It is the investigator's opinion that there is evidence to support a conclusion that this was the view Mrs Bourne was trying to convey by posting the comment to Facebook. Considering that Mrs Bourne was, by her own admission, aware of the expenses she had claimed during her first term in office, there is evidence to suggest she knew the post she made contained inaccurate information.

D30

53. Both section 106 of the RPA and the Electoral Commission guidance state a candidate should not make a false statement of fact about the personal character or conduct of a candidate. It is not in dispute that Mrs Bourne has made a declaration on social media that she has never claimed expenses during her time in office, that she claimed expenses during this time period, or that she

was aware that she had claimed expenses. The evidence suggests that in the context of the social media post, it was not apparent that the statement was limited to Sussex. It follows that there is evidence which suggests that Mrs Bourne did not believe, or did not reasonably believe, that the statement was true. In the investigator's opinion a court could find that Mrs Bourne has made an inaccurate statement relating to her own personal character or conduct.

Was the purpose of Katy Bourne's social media post to influence the outcome of the Sussex PCC election on 5 May 2016?

- KMF/2
KMF/3
S1
D27
D28
KMF/5
T2
D33
54. There are opposing accounts from the complainant and Mrs Bourne in relation to when she posted her comment to social media. X has stated that he viewed the post between 5pm and 9pm on 4 May and Mrs Bourne has stated she made the post at 5:35pm the following day, the day of the election. Unfortunately the IPCC has been unable to view the Facebook comment independently in order to verify either account with certainty. The available evidence does appear to support Mrs Bourne's version of events in that she has been able to provide a screenshot of the Facebook comment with a time stamp of 5:35pm on 5 May 2016. Furthermore, one of the comments contained within X's screenshots shows the following comment, "Day of the election and up you pop. Sooner see boots on the ground rather than an expensive butt on a seat!!!" Considering this refers to the "day of the election", there is an indication that her comment had been posted on 5 May 2016. On this basis, it would appear that X was mistaken in his belief that he saw the post the evening before the election.
- KMF/5
D27
D28
55. Looking at the screenshot provided by Mrs Bourne there are four comments above hers, all of these appear to be negative towards her campaign with one telling the public not to vote for her. Another comment reads, "Don't forget to fill in your expense form correctly". It would appear that her comment regarding expenses was in response to this and, in the investigator's opinion, the context suggests it was designed to portray herself in a more positive light, particularly in relation to the comment regarding her expenses and filling in her forms correctly. This was supported by Mrs Bourne stating during her interview that she accepted there had been negative media coverage in relation to political party expenses on 5 May 2016. It is the investigator's opinion that that, by stating she had not claimed expenses; Mrs Bourne was attempting to disassociate herself from this negative coverage on the day of the election.
- D27
D28
56. Mrs Bourne stated her Facebook comment was part of a conversation she was having with the people of Sussex rather than an attempt to increase her support in the election. However, the comment was made from a Facebook account Mrs Bourne stated had been set up specifically for political campaigning. This would indicate that, rather than having a conversation with the people of Sussex, Mrs Bourne was campaigning.
- D27
D28
KMF/5
57. While Mrs Bourne said she felt the support she received during the campaign was good, she stated that she was never confident of the outcome. Considering she appears to have posted her comment four and a half hours before polls closed, there was still sufficient time for her to campaign in an election. In light of some negative comments on Facebook, this was an opportunity for Mrs Bourne to change the minds of some voters and gain further votes.

58. It is the investigator's opinion that there is evidence to suggest Mrs Bourne posted her comment to social media in order to influence the outcome of the election on 5 May 2016.

Did Katy Bourne's social media post have any bearing on the result of the Sussex PCC election on 5 May 2016?

- T55 59. Mrs Bourne increased her electoral majority. She beat the second highest ranked candidate by 52,943 votes.
- T55 60. Whilst it was not possible to obtain data on the number of votes cast past a certain time, it is known that in 6 out of the 13 voting areas, approximately 23% of the votes were cast after 5pm. Ms Bourne made her posting at 5:35pm. Extrapolating the data to the whole of Sussex, an estimate of votes cast after 5pm is 64,406. Ms Bourne's majority was 52,943. On a purely numerical basis, it appears Mrs Bourne had not received enough votes by 5pm to win the election.
61. However, in the investigator's opinion it is highly unlikely that her Facebook comment regarding expenses would have been seen by an audience sufficiently large and had to have made sufficient impact on the voters such that 52,943 people were influenced to vote for Ms Bourne within the last 4 hours and 25 minutes of voting time.
62. It is the investigator's opinion that, on the balance of probabilities, Katy Bourne's social media post is unlikely to have had any significant bearing on the result of the Sussex PCC election on 5 May 2016.

Conclusions

63. Below, I have set out my conclusions for the appropriate authority and Commission to consider.
64. If there is to be court proceedings, it will be for those proceedings to make final determinations. For example, where I conclude that there is an indication that the person subject to the investigation has committed a criminal offence; this does not amount to a legal determination that a criminal act has been committed. If a charge is then brought by the Crown Prosecution Service (CPS), a court would hear the evidence, and make its own findings about whether the charge is proved or not.

Criminal offences

65. On receipt of my report, the Commissioner must decide if there is an indication that a criminal offence may have been committed by any person under investigation. The indication test is a low threshold
66. If they decide that there is such an indication they must decide whether it is appropriate to refer the matter to the CPS.

67. The specific offence being investigated is a breach of section 106 of the Representation of the People Act 1983; this offence has the following elements:
- a) a false statement relating to the candidate’s personal character or conduct,
 - b) made or published before or during an election,
 - c) for the purpose of affecting the return of a candidate in the election,
 - d) without reasonable grounds to believe, and actual belief in, the truth of the statement.
68. This report has already covered how Mrs Bourne’s statement can be considered to refer to her personal conduct. Based on an analysis of the evidence summarised within this report, it is the investigator’s opinion that there is sufficient evidence to indicate that all four elements of this offence may have been fulfilled by Katy Bourne when she made a social media post prior to her re-election on 5 May 2016.
69. The commission delegate may wish to consider whether it is appropriate to refer this matter to the Crown Prosecution Service. I recommend the following offence is considered:

Name	Criminal offence
Katy Bourne	Breach of Section 106 of the Representation of People Act 1983.

Summary for publication

70. The following summaries are of the incident and our investigation. If the decision is made to publish the case on the IPCC website, this text will be used for that purpose.

Summary of incident	<p>It has been alleged that the Police and Crime Commissioner for Sussex, Mrs Katy Bourne, posted a false statement in the lead up to her re-election as PCC for Sussex on 5 May 2016. She is alleged to have stated she did not claim any expenses during her first term in office. This appeared to be contradictory to a list of expenses published on her website showing she had claimed £385.50 worth in her first year.</p> <p>Mrs Bourne was alleged to have breached section 106 of the Representation of the People Act 1983.</p>
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Summary of investigation

The IPCC obtained statements from the complainant who had initially noticed the relevant comment Mrs Bourne was alleged to have posted. He provided screen shots of this.

Mrs Bourne was interviewed under criminal caution and she provided an exhibit in order to demonstrate the time she had made her original post. The IPCC also interviewed her Governance Manager in order to verify whether Mrs Bourne had claimed expenses.

Further enquiries were made with the returning officer in order to obtain an indication of the likely result of the Sussex PCC election prior to her vote.

As this was a criminal investigation, the IPCC did not reach any definitive conclusions; the investigator recommended the matter be referred to the CPS.

FINAL

Sussex Police and Crime Commissioner

An investigation into an alleged breach of
the Representation of People Act 1983 by
Sussex PCC Katy Bourne

Independent investigation report
Appendices

Appendix 1: The role of the IPCC

The IPCC carries out its own independent investigations into complaints and incidents involving the police, HM Revenue and Customs (HMRC), the National Crime Agency (NCA) and Home Office immigration and enforcement staff when the seriousness or the public interest require it.

We are completely independent of the police and the government. IPCC commissioners by law may never have worked for the police.

All cases are overseen by a commission delegate, providing strategic direction and scrutinising the investigation.

The investigation

At the outset of an investigation a lead investigator will be appointed who will be responsible for the day to day running of the investigation on behalf of the Commission. This may involve taking witness statements, interviewing subjects to the investigation, analysing CCTV footage, reviewing documents, obtaining forensic and other expert evidence, as well as liaison with the coroner, the Crown Prosecution Service (CPS) and other agencies.

They are supported by a team including other investigators, lawyers, press officers and other specialist staff.

Meaningful updates are provided to families and other stakeholders both inside and outside the IPCC at regular intervals.

Throughout the investigation, a series of reviews and quality checks will take place.

The IPCC investigator often makes early contact with the Crown Prosecution Service (CPS) and are sometimes provided with investigative advice during the course of the investigation however we are usually asked by the CPS to keep any such advice confidential.

Investigation reports

Once the investigator has gathered the evidence they must prepare a report. The report must summarise the evidence and refer to or attach any relevant documents.

The report must then be given to the commission delegate who will decide if a criminal offence may have been committed by any of the subjects of the investigation and whether it is appropriate to refer the case to the CPS for a charging decision.

The commission delegate will then decide whether to make individual or wider learning recommendations.

Criminal proceedings

If there is an indication that a criminal offence may have been committed by any subject of our investigation the IPCC may refer a subject to the Crown Prosecution Service. The CPS will then decide whether to bring a prosecution against any person. If they decide to prosecute, and there is a not guilty plea, there may be a trial. Relevant witnesses identified during our investigation may be asked to attend the court. The court will then establish whether the defendant is guilty beyond all reasonable doubt.

Publishing the report

After all criminal proceedings relating to the investigation have concluded, and at a time when the IPCC is satisfied that any other proceedings will not be prejudiced by publication, the IPCC may publish its investigation report.

Redactions might be made to the report at this stage to ensure that individuals' personal data is sufficiently protected and occasionally for other reasons.

Appendix 2: Terms of reference

Terms of Reference

Investigation into a complaint that the Sussex Police and Crime Commissioner may have committed an offence by posting a false statement during her re-election campaign in May 2016.

Investigation Name:	Sussex PCC
Investigation Type:	Independent
Police and Crime Panel:	Sussex
IPCC Reference:	2016/071078
Commissioner:	Sarah Green
Lead Investigator:	Dilvinder Norris
Target Range:	3 - 6 months

Summary of matter

On 9 August 2016 the Sussex Police and Crime Panel referred a complaint they had received to the IPCC. It has been alleged that the Sussex Police and Crime Commissioner (PCC), Katy Bourne, made a false statement during her campaign to be re-elected in May 2016. Mrs Bourne is said to have made a post to social media on 4 May 2016, the day before the election, stating she had not claimed any allowances or expenses during her term in office. This statement would contradict figures published on the Sussex PCC's own website showing she had claimed expenses totalling £385.50 between November 2012 and September 2013.

Terms of Reference

4. The investigation relates to the alleged conduct of relevant office holder Katy Bourne, the Police and Crime Commissioner for Sussex.
5. To investigate the pre-election actions of Katy Bourne, specifically:
 - d) whether she knowingly posted a false declaration on social media stating she had not claimed expenses during her term in office, despite having previously claimed £385.50;

- e) whether the purpose of her social media post was to influence the outcome of the Sussex Police and Crime Commissioner elections on 5 May 2016;
 - f) whether her social media post had any bearing on the result of the Sussex Police and Crime Commissioner elections on 5 May 2016.
6. To prepare a final report which indicates whether, in the opinion of the investigator, a criminal offence may have been committed by the relevant office holder. On receipt of the final report, the Commissioner shall determine whether the report should be sent to the Director of Public Prosecutions.

The commissioner currently responsible for oversight of this investigation is Sarah Green. The commissioner has approved these terms of reference. At the end of the investigation they will decide whether or not the report should be submitted to the Director of Public Prosecutions, and whether they agree with the appropriate authority's proposals in response to the report. During the investigation they may choose to delegate their role to another member of staff if appropriate.

These terms of reference were approved on 31 August 2016.

Appendix 3: People referred to in this report

The IPCC categorises people in three different ways:

- d) **Subjects** of the investigation (people whose conduct was the subject of the investigation).
- e) **Witnesses** (people who gave evidence for the investigation). This includes **significant witnesses** (people who saw or heard or otherwise witnessed a significant part of the incident).
- f) **Experts** (people with expertise in a particular area who were instructed by the IPCC to provide their expert opinion)

Not everyone spoken to during the course of the investigation is referred to in this report. This report makes reference to the following people:

Subjects

Ref	Name	Role	Date notified	Interviewed
	Katy Bourne	Sussex PCC	02/09/2016	27/09/2016

Witnesses

Ref	Name	Role	Type of witness	Interviewed
	X	Complainant	Member of the public	14/09/2016
	[REDACTED]	Senior Governance Manager OPCC	OPCC staff	10/10/2016

Expert witnesses

Ref	Name	Expertise	Terms of reference	Report provided
	N/A			

Appendix 4: Evidence referred to in this report

Throughout this investigation a volume of evidence was obtained and reviewed. Not all the evidence gathered during the investigation has been referred to in this report. This report makes reference to the following relevant evidence:

Ref	Evidence	Details	Obtained
S1	Statement of X	Statement of X 14/09/2016 referring to production of exhibits KMF/2 and KMF/3 (photographs of Katy Bourne's Facebook posts and supporting documentation)	14/09/2016
S3	Statement of [REDACTED]	Statement of [REDACTED] 10/10/2016 regarding authenticity of PCC's expenses	10/10/2016
D27	Transcript of Katy Bourne interview 27/09/2016 (Disc 1 of 2)	Transcript of Katy Bourne interview 27/09/2016 (Disc 1 of 2)	09/11/2016
D28	Transcript of Katy Bourne interview 27/09/2016 (Disc 2 of 2)	Transcript of Katy Bourne interview 27/09/2016 (Disc 2 of 2)	09/11/2016
D30	The Electoral Commission Guidance	The electoral Commission Guidance: Guidance for Candidates and Agents. Part 4 of 6 - The Campaign	29/11/2016
D33	Screenshot of Mrs Bourne's campaign Facebook page	Screenshot from Facebook page titled, "Katy Bourne for Sussex Police & Crime Commissioner" used for her campaigning.	05/12/2016
T2	Email from Intel Unit 22/08/2016	Email from Intel Unit 22/08/2016 advising they are unable to open Facebook post where comment is suspected to be	22/08/2016
T55	Email 10/11/2016 from Police returning officer	Email 10/11/2016 from Police returning officer with estimate of number of votes cast past 5pm	10/11/2016
T58	Email 05/12/2016 from [REDACTED]	Email 05/12/2016 from [REDACTED] confirming PCC travel was between Haywards Heath and London Victoria	05/12/2016

KMF/2	Exhibit KMF/2	Print out of photograph of Facebook post by Katy Bourne, taken by X	14/09/2016
KMF/3	Exhibit KMF/3	Documentation provided by X during interview 14/09/2016	14/09/2016
KMF/5	Exhibit KMF/5	Screen print from Katy Bourne showing Facebook post	27/09/2016
KMF/7	Exhibit KMF/7	Expenses Schedule for PCC Bourne – verified by [REDACTED] [REDACTED]	10/10/2016

EMINENT