

SUMMARY DECISION SHEET

Purpose: Commissioner Decision – REF. Legally Qualified Chairs (LQCs) and Independent Panel Members (IPMs) Indemnity Insurance

Timing: ASAP

Title: Legally Qualified Chairs (LQCs) and Independent Panel Members (IPMs) Indemnity Insurance

Category of Decision / Business Area Impact: Quality of Service

Background:

Under the Police Conduct Regulations 2012 (as amended by Police (Conduct) (Amendment) Regulations 2015), changes were made to the conduct and composition of police misconduct hearings for police officers of Superintendent rank and below. The purpose of the changes is to bring greater transparency and independence to police misconduct hearings. They include the holding of hearings in public (which was introduced in May 2015) and since January 2016, the chairing of them by legally qualified person appointed by Police and Crime Commissioners (the Commissioners). Further changes in legislation came into effect from 1st February 2020 under the Policing and Crime Act 2017, where legally qualified chairs will be required to manage police misconduct hearings from the outset.

Misconduct process – Non Senior Police Officers (Superintendent and below)

Public confidence in the police is of the highest importance. To secure it, police officers are expected to demonstrate a high level of personal and professional standards of behaviour. An allegation of misconduct against a police officer or a special constable may be deemed appropriate for investigation by the Force's Professional Standards Department or the Independent Office for Police Conduct (IOPC). The findings of an investigation will be referred to and formally assessed by the Deputy Chief Constable as the 'appropriate authority.' If the Deputy Chief Constable considers the allegation as one of gross misconduct, the matter will be referred to a police misconduct hearing for determination and, in the event of the allegation being found to be proved, the imposition of sanctions.

Misconduct Hearings in Dyfed Powys, Gwent, North Wales and South Wales

Hearings will be held in each of the Dyfed Powys, Gwent, North Wales and South Wales police force areas. Hearings will be conducted by a Police Misconduct Panel (the panel) made up of one legally qualified chair, one police officer of at least the rank of superintendent and an independent member. It is the responsibility of the Office of the Police and Crime Commissioner to maintain a list of legally qualified chairs and independent members and appoint them. It is the responsibility of the Office of the Police and Crime Commissioner to appoint them by using the 'cab rank process.' It is the responsibility of the appropriate authority to appoint a police officer member of the panel.

Sanctions

The College of Policing have produced 'Guidance on outcomes in police misconduct

Background (Cont):

proceedings.' The College of Policing is a professional body for the police in England and Wales, whose responsibility includes a number of training and development roles. The guidance is intended to assist the panel appointed to conduct misconduct proceedings.

Legislation

Police (Conduct) Regulations 2012 (amended by Police (Conduct) (Amendment) Regulations 2014 and 2015)
Police (Conduct) Regulations 2019 (enacted from 1st February 2020)
Policing and Crime Act 2017

The selection and appointment of membership to police misconduct hearings and police appeals tribunals can be located via the following hyperlink: [selection-of-misconduct-panels-and-police-appeals-tribunals-final-version-2.pdf \(dyfedpowys-pcc.org.uk\)](https://www.dyfedpowys-pcc.org.uk/selection-of-misconduct-panels-and-police-appeals-tribunals-final-version-2.pdf).

Indemnity Considerations:

On 30th November 2020, the Association of Police and Crime Commissioners (APCC) notified all Office of Police and Crime Commissioners (OPCC's) of concerns raised regarding the indemnity wording agreed with LQCs in 2018. As a result, the APCC worked with the Association of Police and Crime Commissioner Chief Executives (APACE), the Home Office and the National Association of LQCs to develop a form of agreed interim indemnity wording in relation to both LQCs and IPMs.

On 28th September 2021, APACE provided all OPCC's with an update that the Home Office have considered that a change to primary legislation is required, however legislation won't be introduced until the appeal case for [The Chief Constable of Avon and Somerset Constabulary v Mr Nicholas Eckland: UKEAT/0123/20/JOJ \(V\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/cases/the-chief-constable-of-avon-and-somerset-constabulary-v-mr-nicholas-eckland) is concluded.

The National Association of Legally Qualified Chairs (NALQC) wrote to all OPCC Chief Executives on 11th October 2021, requesting confirmation that our OPCC is both currently financially and in the foreseeable future it will remain financially able to and will indemnify LQCs appointed to chair misconduct proceedings in our force area in respect of any substantive and substantial liability they may have in civil proceedings arising as a consequence of their discharging their statutory duties.

On 25th November 2021, the NALQC had their AGM and voted that *"until the Home Office provides the NALQC with written confirmation that it will ensure that, within a period of 9 months, primary legislation is enacted providing Legally Qualified Chairs ("LQCs"), Independent Panel Members ("IPMs") and Police Panel Members ("PPMs") with immunity from suit in relation to all matters arising from and in connection with their conducting misconduct proceedings under the Police (Conduct) Regulations 2012, the Police (Conduct) Regulations 2020 and any subsequent legislation, including proceedings that have taken place prior on or before the 25th November 2021, members should refuse to accept further appointments to chair police misconduct proceedings."*

The Home Office advised that the outcome of the current case of [The Chief Constable of Avon and Somerset Constabulary v Mr Nicholas Eckland: UKEAT/0123/20/JOJ \(V\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/cases/the-chief-constable-of-avon-and-somerset-constabulary-v-mr-nicholas-eckland), at that time before the Court of Appeal, would determine whether legislation should be provided to protect them or not.

Indemnity Considerations (Cont):

In the event of the Home Office providing the NALQC with such written confirmation, pending the passing of the primary legislation, LQC's have been advised by NALQC to only accept further appointments to chair police misconduct proceedings if the relevant Police and Crime Commissioner (or equivalent) agrees to provide them with an indemnity.

The Police and Crime Commissioner (PCC) for Dyfed Powys wrote to the Home Office in his capacity as Chair of Policing in Wales on 21st December 2021 regarding the current situation concerning the provision of indemnity by local policing bodies to Legally Qualified Chairs (LQCs) and Independent Panel Members (IPMs) of Police Misconduct Hearing Panels.

Police and Crime Plan:

Police and Crime Commissioners (PCCs) act as the voice of the public on policing and crime matters. They are responsible for setting the strategic direction for policing within their respective force areas.

It is the responsibility of the Office of the Police and Crime Commissioner to maintain a list of legally qualified chairs and independent members and appoint them. It is the responsibility of the Office of the Police and Crime Commissioner to appoint them by using the 'cab rank process.'

This forms part of the Commissioners' priorities i.e. Victims are supported and Harm is prevented.

Recommendation:

The PCC has to consider the public interest in holding police misconduct hearings at the earliest opportunity and the impact that this has on public confidence. Police misconduct hearings need to continue, for the benefit of officers, complainants and members of the public. With this in mind, the Police and Crime Commissioner's Office suggest that the agreed interim indemnity wording, as circulated by the APCC on 30th November 2020 is continued to be provided to LQCs and IPMs in Dyfed Powys.

Dyfed Powys OPCC have considered approaching LQC's on the 'All Wales list' to pre-empt a decision; however concluded that it is preferable to approach the LQCs once we reach the time for appointment. If no LQCs are available to Chair, Dyfed Powys OPCC will report this to the Home Office.

Police and Crime Commissioner for Dyfed-Powys

I confirm I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with the Nolan Principles for Conduct in Public Life.

The above request has my approval.

Signature:**Date:** 3rd March 2022