

Record of Decision

ORIGINATOR: Chief Executive

REFERENCE: OPCC.D.029.22

TITLE: Legally Qualified Chairs and other members of Police Misconduct Panels indemnity

OPEN **CONFIDENTIAL**

Reason if Confidential:

EXECUTIVE SUMMARY

Legally Qualified Chairs (LQCs) sit on Kent Police Gross Misconduct hearings. However, they are recruited, maintained and paid for by OPCCs.

Following a case in Avon and Somerset last year, where the determination was challenged by Judicial Review, LQCs requested that they be formally indemnified against any liabilities arising from the discharge of their functions.

The Home Office believes that this will require Primary Legislation. However, as yet there is no date for when this will be introduced.

Nationally, LQCs are refusing to Chair hearings until this is in place. Without the ability to take gross misconduct matters to a hearing, the system will grind to a halt. This would negatively impact on the officers, staff, complainants and witnesses involved; create an unmanageable workload and backlog for Kent Police's Professional Standards Department; and present a significant reputational risk.

Therefore, to mitigate this risk, it is proposed that PCCs offer an indemnity, in line with LQCs' wishes, to ensure that hearings can continue to take place. The APCC working with APACE, the Home Office and the National Association of LQCs has suggested the following wording: *'I (in my role as Police and Crime Commissioner) agree to indemnify you as the Legally Qualified Chair in respect of any liabilities arising (including reasonable costs in connection with responding to legal proceedings) for anything done or omitted to be done by you in the discharge of your functions unless, having received representations or submissions by or on your behalf, you are proved in a court of law or other tribunal with appropriate jurisdiction to have acted in bad faith. Furthermore, in the event of your being held to have any liability for anything done or omitted to be done by another member of the Panel of which you are part, I agree to indemnify you in full in respect of any such liability.'*

Whilst it is believed the risk in Kent is low, as there have been no Judicial Reviews of cases since the inception of LQCs' in 2015, this is outweighed by the definite, significant issues which would be caused by there being no ability to progress Gross Misconduct hearings.

RECOMMENDATION

The PCC is recommended to provide indemnity until such time as the Home Office finds a national solution.

DECISION

To approve the APCC wording and provide indemnity for LQCs and other members of Police Misconduct Panels until such time as a national solution is found.

Chief Finance Officer:

Comments: This indemnity is required to ensure that the disciplinary system can continue to operate. Our insurers have confirmed that this is covered through our current insurance policies which mitigates the risk.

Signature:



Date: 31 May 2022

Chief Executive:

Comments: Without LQC's and independent panel members, the discipline system would grind to a halt. It is a critical aspect of transparency and assurance to the public. There is work progressing on a national basis to try and resolve the situation on a permanent/statutory basis. Until then, this is the only option that will maintain the efficient running of the complaints and hearings process. The group insurance scheme have confirmed this is covered within the terms of the overall insurance held by the Force and Commissioner.

Signature:



Date: 24 May 2022

Police and Crime Commissioner for Kent:

Comments: I authorise this indemnity to maintain the efficient and effective running of the complaints and hearings process which is underpinned by the Code of Ethics and integral to trust and confidence in policing.

Signature:



Date: 1 June 2022

BACKGROUND DOCUMENTS:

APCC Circulars: GR 198/2020; GR 200/2020; GR 207/2021; GR 8/2022; GR 21/2022

IMPACT ASSESSMENT:

Police and Crime Plan
(please indicate which objectives decision/recommendation supports)

Supports delivery of the Police and Crime Plan by strengthening public trust and confidence in policing through the continued provision of effective, fair and transparent Police Misconduct Panels.

Has an Equality Impact Assessment been completed?

Yes No *(If yes, please include within background documents)*

Will the decision have a differential/adverse impact on any particular diversity strand?
(e.g. age, disability, gender reassignment, race, religion/belief, sex, sexual orientation, marriage/civil partnership, pregnancy/maternity)

Yes No
The decision is administrative in nature. Therefore, it does not have a differential/adverse impact on any particular strand of diversity.