

THE POLICE CRIME & VICTIMS' COMMISSIONER FOR DURHAM

DECISION RECORD FORM

REQUEST:

Title: Indemnity for Legally Qualified Chairs (LQCs) of Police Conduct Hearings

Background: With effect from 1 January 2016, the Police, Crime and Victims' Commissioner was required by law to nominate legally qualified people to chair Misconduct Hearings (Decision 43/2015 refers) in respect of police officers (other than senior officers, in respect of whom other arrangements apply). The law stated that such proceedings should from that date be chaired by a person selected by the appropriate authority who satisfies the judicial appointment eligibility condition on a 5-year basis and had been nominated by a local policing body for the purposes of these Regulations.

Summary: At a recent APCC review of LQCs and misconduct hearings concerns were reiterated by LQCs regarding the issue of indemnity. This related to protecting LQCs personally from the possibility of legal proceedings which could arise from their decisions as a misconduct panel chair. Counsel's advice, with regard to this issue has been obtained, advocates that an appropriate solution would be for PCCs to make a policy decision to give LQCs an indemnity in respect of claims arising directly out of the performance of their statutory functions.

The terms and conditions for LQCs have been revised to reflect the guidance received from counsel on the provision of indemnity for LQCs. The proposal for the granting of indemnities, (although generated by concerns originally expressed by LQCs), is that it should extend to all members of a misconduct panel. Other members of such panels are likely to be jointly liable with the relevant LQC for any matters that are subject to legal challenge, and it therefore seems entirely appropriate that they should receive the same safeguards as LQCs.

Decision: The PCVC agrees to adopt the new terms and conditions in relation to indemnity for Legally Qualified Chairs and Panel Members of Police Conduct Hearings as a supplement to the original decision record 43/2015.

OPCVC Lead Officer: Alan Reiss

Contractor Details (if applicable):

Implications:

Has consideration been taken of the following:	Yes	No
Financial	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Legal	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Equality & Diversity	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Human Rights	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sustainability	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Risk	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Consultation	<input checked="" type="checkbox"/>	<input type="checkbox"/>

(If yes please provide further details below)

Decision Required – Supporting Information

Financial Implications: (Must include comments of the PCVC's CFO where the decision has financial implications)

There is a budget of £3,000 per annum in the OPCVC office budget to cover the potential cost for the chairing of Police Misconduct Panels.

Legal Implications: (Must include comments of the Monitoring Officer where the decision has legal implication)

No legal implications

Equality and Diversity Implications

No specific equality and diversity implications

Human Rights Implications

No specific human rights implications

Sustainability Implications

No specific sustainability implications

Risk Management Implications

No specific risk management implications

Consultations

No specific consultation took place

OFFICER APPROVAL

Chief Executive

I have been consulted about the decision and confirm that financial, legal, and equalities advice has been taken into account. I am satisfied that this is an appropriate request to be submitted to the Police and Crime Commissioner.

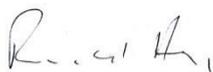
Signed:



Date: 10/04/2018

Police and Crime Commissioner:

Signed:



Date: 10/04/2018

INDEMNITY TO BE PROVIDED TO LEGALLY QUALIFIED CHAIRS OF POLICE CONDUCT HEARINGS

- 1) In the absence of any other applicable indemnity or insurance, the PCC indemnifies LQCs and other police conduct panel members ("panel members")in respect of civil liability (including legal costs incurred in responding to legal proceedings) for anything done or omitted to be done directly in the discharge of their functions as panel members, unless the act or omission is shown to have been in bad faith, reckless or to result from gross and obvious irregularity for which panel members are responsible.

- 2) For the avoidance of doubt, it shall be a condition of the acceptance of this offer of indemnity by a panel member that he or she shall,
 - a. immediately inform the PCC of any claim brought or intimated against them
 - b. Immediately disclose to the PCC the existence and details of any other applicable indemnity or policy of insurance which may provide cover in respect of all or part of the claim.
 - c. make available to the PCC and his or her advisors upon request all such information, notes, and records as may be reasonably required in respect of the resolution of the claim or which must be disclosed pursuant to the rules of a court of competent jurisdiction.
 - d. co-operate fully with the PCC in respect of the response to the claim
 - e. do nothing that might prejudice the resolution of the claim
and failure to comply with such conditions will entitle the PCC to withdraw the indemnity hereby provided.

- 3) The PCC reserves the right to assume conduct of any claim (and receive such legal advice and representation as may in his view be appropriate), but shall be under no obligation to do so. The PCC in such circumstances may make such determinations as to the conduct of the claim and its settlement as he deems fit.

- 4) The panel member may elect to conduct the claim personally, but the PCC reserves the right as from the date of such election to withdraw the indemnity hereby granted.