




DECISION PAPER

DECISION: 15/2022	DATE: 1 JANUARY 2022
TITLE: INDEMNITY WORDING FOR LEGALLY QUALIFIED CHAIRS (LQCS) AND INDEPENDENT PANEL MEMBERS (IPMS) FOR MISCONDUCT HEARINGS	
REPORT BY:	
IAN DICKINSON, HEAD OF ACCOUNTABILITY AND GOVERNANCE	
Executive Summary	
<p>The Association of Police and Crime Commissioners (APCC) has worked with the Home Office and the National Association of Legally Qualified Chairs (NALQC) to develop an indemnity which PCCs were advised for an interim period whilst work continues to develop a legislative solution. As a longer-term solution has not been reached, it is proposed that the wording of the indemnity will continue to be adopted for a two-year period from 1 January 2022 or until such a time as a permanent solution is agreed by the Home Office and clarified by the APCC, whichever is the sooner.</p>	
Recommendation	
<p>The Police and Crime Commissioner is recommended to agree to indemnify Legally Qualified Chairs and Independent Members of misconduct hearings in line with the wording set out in the report now presented for a two-year period from the 1 January 2022 or until such a time as a permanent solution is agreed by the Home Office and clarified by the APCC, whichever is the sooner.</p>	
Signature	
Police and Crime Commissioner	
Date	16/8/22

PART I

1. Background and Advice

As the Commissioner is aware, the Association of Police and Crime Commissioners (APCC) has worked with the Home Office and the National Association of Legally Qualified Chairs (NALQC) to develop an indemnity which PCCs were advised for an interim period whilst work continues to develop a legislative solution.

During this period the Commissioner has indemnified Legally Qualified Chairs and Independent Members of misconduct hearings on a case-by-case basis. However, as a longer-term solution has not been reached, it is proposed that the Commissioner may wish to indemnify all Legally Qualified Chairs and Independent Members in relation to any future misconduct hearing involving a Lancashire Police Officer until such a time as a permanent solution is agreed by the Home Office and clarified by the APCC.

It is proposed that the following wording will continue to be adopted for a two-year period from January 2022 or until such a time as a permanent solution is agreed by the Home Office and clarified by the APCC, whichever is the sooner.

This decision will be reviewed in January 2024.

Commissioner Statement regarding Indemnity

"In respect of the case of I (in my role as Police and Crime Commissioner) agree to indemnify you as the Legally Qualified Chair/Independent Member 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"

By formally adopting the above statement the LQCs and IPMs will have indemnity wording which offers both them and the Commissioner reassurance that they are covered for damages unless it is shown in a court or similar that they have acted in bad faith.

It also provides the Commissioner with a backstop to ensure that LQCs act professionally in their role as panel chair.

Without this assurance the Commissioner would have difficulty in appointing LQCs and IPMs to carry out their roles and individuals involved are potentially unable to be operational for longer than might be necessary.

2. Links to the Police and Crime Plan

This will support the effective independent scrutiny of the Lancashire Constabulary Complaints system and ensure we continue to comply effectively with our statutory responsibilities and thereby continue to meet our objectives within the Police and Crime Plan.

3. Consultations

None

4. Implications:

This is an interim solution and there is still no date for when a national solution will be determined.

a. Legal

Without the ability to carry out misconduct hearings Lancashire Constabulary would be potentially in breach of their disciplinary policy. This could have an impact in terms of any legal action taken by the officers involved. The PCC is required to recruit LQC's and IPMs to ensure that the disciplinary process can be completed.

b. Financial

Without the ability to carry out misconduct hearings there is the potential to be paying staff who are on restricted duties for longer than might be necessary. There is a risk of an equality/ discrimination claim against the individual LQC and IPM in carrying out these hearings from the Officer subject to the proceedings. If such a claim is brought then the indemnity will be called upon and claims if successful could be unlimited in terms of damages. In the even that such a claim is brought then the matter would be self-insured and not covered by insurance.

c. Equality Impact Assessment

This matter was originally identified in relation to the Equality Act 2010 and whilst there should be no particular equality and diversity implications, we should remain mindful of how the matter arose.

d. Data Protection Impact Assessment - None

5 Risk Management



None

6. Background Papers

None

7. Public access to information

Information in this form is subject to the Freedom of Information Act 2000 and other legislation. Part 1 of this form will be made available on the PCC website within 3 working days of approval. Any facts/advice/recommendations that should not be made available on request should not be included in Part 1 but instead on the separate Part 2 form.

Officer declaration	Date
LEGAL IMPLICATIONS – As above	
FINANCIAL IMPLICATIONS – As above	
EQUALITIES IMPLICATIONS – As above	16.08.2022
CONSULTATION – As above	
<p>Director to the Office of the Police and Crime Commissioner (Monitoring Officer)</p> <p>I have been informed about the proposal and confirm that financial, legal and equalities advice has been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the Police and Crime Commissioner for Lancashire.</p> <p>Signature  Date 16.08.2022</p>	