



DECISION PAPER

DECISION: 2022/37	DATE: 12 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 The Association of Police and Crime Commissioners (APCC) has continued to work with the Home Office and the National Association of Legally Qualified Chairs (NALQC) to further refine an indemnity 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.	
Recommendation The Police and Crime Commissioner is recommended to 1. 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 or until such a time as a permanent solution is agreed by the Home Office and clarified by the APCC, whichever is the sooner. 2, note the position in relation to the legislative solution proposed by the Minister of State for Crime, Policing and Fire.	
Signature Andrew Snowden Police and Crime Commissioner Date 12 th January 2023	

PART I

1. Background and Advice

The Commissioner will recall that in August 2022 he agreed to indemnify all Legally Qualified Chairs and Independent Members in relation to any future misconduct hearing involving a Lancashire Police Officer for a two-year period or until such a time as a permanent solution is agreed by the Home Office and clarified by the APCC.

The Association of Police and Crime Commissioners (APCC) have continued to work with the Home Office and the National Association of Legally Qualified Chairs (NALQC) and as such the wording of the indemnity has been further refined.

It is therefore proposed that the following wording will replace that which was agreed on the 16 August 2022. (Decision 15/2022) and will be effective from the date the decision was signed.

In respect of the case of which is to be held on I (in my role as Police and Crime Commissioner or equivalent) agree to indemnify you as the Legally Qualified Chair ("LQC")/Independent Panel Member ("IPM") in respect of any liabilities arising (including reasonable costs as agreed with you in connection with responding to or engaging with any legal proceedings or matters arising from the discharge of your functions as an LQC/IPM) for anything done or omitted to be done by you in the discharge of those 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.

In addition and/or for the avoidance of doubt, it is confirmed that this indemnity includes, but is not limited to, any costs you may incur:

- In seeking legal advice in relation to the receipt of a witness summons/order or an application therefor;*
- In relation to the preparation of any representations and/or witness statements in relation to an application for a witness summons/order and/or in relation to an application to set aside the issuing of a witness summons/order;*
- In relation to securing legal representation at any hearing of an application for a witness summons/order and/or the hearing of any application to set aside the issuing of a witness summons/order;*

- In relation to the costs (including costs of legal representation) of participating in any appeal and/or application for judicial review (and any appeal therefrom) arising as a consequence of your being in receipt of an application for a witness summons/order or an application therefor; and*
- In relation to attending a hearing or hearings, including the time spent thereat. However, save where the issue/matter needs to be addressed by you immediately, no costs to which this indemnity applies should be incurred by you before you have notified the Chief Executive of my Office of the nature and extent of the issue/matter giving rise to a claim under it.*

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.

Further to the revised wording, the Rt Hon Chris Philp MP Minister of State for Crime, Policing and Fire has written to the APCC committing to identifying potential legislative solutions to confer statutory immunity on panel members and has asked Home Office officials to urgently explore options and implications.

Once a policy proposal has been agreed, it will need cross Government approval for that policy and permission to legislate through primary statute which means finding a suitable Bill to include the measure in.

The Minister is hopeful that there will be a suitable vehicle in the 4th Session (i.e. the approx. 12 month period that could start around May 2023) but this cannot be confirmed until the start of the 4th session via the King's Speech, which could take place around May 2023. The legislation could then take 9-12 months to progress through Parliament, getting Royal Assent in the winter of 2023 or into early 2024 (depending on Parliamentary scheduling).

This decision will be reviewed in January 2024.

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.

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.

c. Equality Impact Assessment

This matter was originally identified in relation to the Equality Act 2010 and whilst in itself 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	Steve Freeman 16 th January 2023
EQUALITIES IMPLICATIONS – As above	
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 Angela Harrison Date 12th January 2023</p>	