

PFCC Decision Report

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Report reference number: 186-23

Classification (e.g. Not protectively marked/restricted): **Not Protectively marked**

Title of report: APPOINTMENT OF LEGALLY QUALIFIED CHAIRS

Area of county / stakeholders affected: **Countywide**

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Date of report: 20.11.2023

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1. Executive Summary

This report sets out the decisions required to appoint Legally Qualified Chairs to hear Police Misconduct Hearings from January 2024. This includes the appointment of new LQCs and the reappointment of several LQCs currently on the Eastern Region list.

2. Recommendations

The Police, Fire and Crime Commissioner is required to maintain a list of LQCs to manage and chair misconduct hearings under the Police (Conduct) Regulations 2012 and subsequent legislation.

The six Commissioners in the Eastern Region currently maintain a joint list. It is recommended that from 1st of January 2024 the Ministry of Defence Police are included in this list following the relocation of some of their services into the region. This would allow the region to maintain a larger list of LQCs and as a result have a

more resilient system in place. Each commissioner would maintain responsibility for the appointment of their own LQCs from the list.

It is recommended that the Commissioner agrees the re-appointment of the 11 LQCs identified in 4 (a) for a further term of six-years from 1 January 2024;

It is recommended that the Commissioner agrees the re-appointment of the seven LQCs identified in 4 (a) for a further term of two-years from 1 January 2024;

It is also recommended that the Commissioner approves the appointment of those identified in 4 (b) for a five-year term on the basis as set out in that section.

It is recommended that the Commissioner appoints all of the LQCs referenced in the recommendations above on the terms and conditions set out in Appendix 9, subject to minor insubstantial changes to reflect governance arrangements within the Ministry of Defence police and which would not alter the commitments of the Commissioner.

3. Background to the Proposal

With effect from 1 January 2016 Police and Crime Commissioners (PCCs) were required to nominate persons to serve as LQCs of police misconduct panels under the Police (Conduct) Regulations 2012. Regulation 25(4) provides:

“Where the case is referred to a misconduct hearing, that hearing shall be conducted by a panel of three persons appointed by the appropriate authority, comprising (a) a chair selected by the appropriate authority who satisfies the judicial appointment eligibility condition on a 5 year basis and has been nominated by a local policing body for the purposes of these Regulations....”

The LQCs sit on misconduct panels with a member of a police force, of at least the rank of superintendent, and an independent member.

Whilst the responsibility to appoint the LQCs is an individual one for PCCs, the Eastern Region Offices of PCCs recognised that there were benefits to be achieved in undertaking a regional recruitment and appointment exercise. In particular the creation of a larger more resilient pool of LQCs and economies of scale in the recruitment process.

Accordingly, the Eastern Region PCCs proceeded to recruit and appoint a panel of 17 LQCs for the Region. The appointments were made for a four-year term with effect from 1 January 2016 with the option at the discretion of the PCCs for the term to be extended for a further four-year period. The first four-year period expired on 31 December 2019 and the PCCs, in Essex through Decision Report 163-19, agreed to reappoint eight LQCs and appointed a further 16. This brought the pool of LQCs up to 24 which was considered at the time to be sufficient to meet demand across the six force areas.

The size of the Eastern Regional Panel has now, with attrition, reduced to 18 members with six members not sitting for a variety of reasons including concerns of indemnity.

Officers from each of the six Offices of PCCs in the Region have been meeting regularly as the Member Misconduct Oversight Panel (MMOP) to coordinate and operate all aspects of the administration of LQCs and independent members. The MMOP have been planning activity to ensure that sufficient LQCs are available for misconduct panels from 1 January 2024.

At its meetings, MMOP considered data which showed that since 1 January 2016 LQCs had sat on 243 cases across the Region as follows:

County	Jan 2016 – Dec 2019	Feb 2020 – Nov 2023
Essex	46	52
Hertfordshire	12	37
Cambridgeshire	11	15
Bedfordshire	7	19
Norfolk	7	15
Suffolk	7	15
total	90	153

During 2023 the MMOP group have been approached by the Ministry of Defence Police who have asked to join the MMOP and gain access to the LQCs appointed. This has been welcomed as providing the opportunity to maintain a stronger pool of LQCs, share the costs among more groups and provide an interesting incentive for LQCs to join the Eastern Region Group. It is anticipated that the Ministry of Defence Police will generate 5-6 Misconduct Hearings per year.

Feedback from Professional Standards Departments indicated that, owing to the other professional engagements of LQCs, it was not always easy to select and appoint a chair to a misconduct hearing, though no cases had failed to be filled.

The rate of attrition from both the 2016 and 2020 recruitment rounds combined with increases in demand and an uncertain national regulatory situation all led to the MMOP concluding that the list size needed to increase from the current figure of 24 to 31.

The MMOP determined to take an approach whereby it would consider re-appointing existing LQCs for second terms and, where possible a third term then, on top of that, launch a recruitment exercise to select and appoint a group of new LQCs in order to reach the required list size of 31.

4. Proposal and Associated Benefits

(a) RE-APPOINTMENT OF LEGALLY QUALIFIED CHAIRS

During 2023 the MMOP also reviewed and refreshed the Terms and Conditions of appointment of LQC to align them once again with the Police Appeal Tribunal Terms and Conditions where appropriate and those set out in the LQC handbook.

This led to updated rates but also an increase in the term of appointment from 4 to 5 years. The LQC terms are aligned to the PAT terms and the LQC handbook to ensure consistency across the country. Following this increase the MMOP group took the view that existing LQCs should be moved to the five-year term and where appropriate this should be extended to a maximum combined term of 10 years.

During 2023 all current LQCs were advised that the region was considering the extension of terms to five years and a combined maximum of ten years. They were also informed that in considering re-appointment the factors that would be taken into account in deciding whether to extend the current term of appointment would include amongst other things, number of sittings, number of sittings declined and training attended.

During 2023 LQCs were asked whether they wished to be re-appointed. Following the responses from LQCs MMOP determined that 18 of the existing 21 LQCs should be recommended for re-appointment. It should be noted that of the 18 LQCs who indicated they wanted to be reappointed four had chosen not to sit due to the uncertainty over a Home Office provided judicial indemnity and one stated that they were also concerned but agreed to consider each case on its merits.

Following representations from the LQCs it was agreed that we would propose that those LQCs who had not sat for this reason could be reappointed but the overall pool of LQCs would be expanded to reflect this. As such the overall pool of LQCs would expand to 35 with an active pool of 31.

The 18 members recommended for re-appointment are:

LQC	Appointment date	Period of re-appointment
Mr John Bassett (Indemnity Issue)	2016	Until 2026 – 2 years
Mr Colin Chapman (Indemnity Issue)	2016	Until 2026 – 2 years
Mr Trevor Jones	2016	Until 2026 – 2 years
Ms Monica Daley-Campbell	2016	Until 2026 – 2 years
Mr Neil Dalton	2016	Until 2026 – 2 years
Miss Siobhan Goodrich (Indemnity Issue)	2016	Until 2026 – 2 years
Mr Peter Nicholls	2016	Until 2026 – 2 years
Mr Andrew Clemes	2020	Until 2030 – 6 years
Miss Francesca Del Mese	2020	Until 2030 – 6 years
Mrs Lyndsey De Mestre KC	2020	Until 2030 – 6 years
Mr Stephen Gowland	2020	Until 2030 – 6 years
Mr Andrew Hearn	2020	Until 2030 – 6 years
Mr Harry Ireland	2020	Until 2030 – 6 years
Mrs Jane Jones (Indemnity Issue)	2020	Until 2030 – 6 years

Mr James Keeley	2020	Until 2030 – 6 years
Mr Karimulla Khan	2020	Until 2030 – 6 years
Mrs Sharmistha Michaels	2020	Until 2030 – 6 years
Mr David Tyme	2020	Until 2030 – 6 years

The terms and conditions on which LQCs were appointed provide: “Appointments are set initially for four years (This has now been altered to five years) commencing on 1 January 2016 with a full review of continuing suitability at the end of that time. Subject to that review, a further period of service may be agreed at the discretion of the Eastern Region PCCs for a possible term of a further four years (now extended to a maximum combined period of 10 years).”

The views of the existing LQCs were sought on the proposed recruitment process and terms and conditions. Views expressed assisted the recruitment process and made some points that were considered and, in some cases, adopted. These included that LQCs who were currently declining to sit should be reappointed notwithstanding. This has been included in the recommendations. A number made the point that there is no need to limit the appointment to 10 years in total. This was considered to have merit, but as the Home Office had only recently reviewed PAT chair terms and conditions and adopted a 10 year limit the LQC terms should be consistent with this. It is easily amended if negotiations with the APCC and LQCs result in a different recommendation. The review has identified those LQCs identified above for re-appointment for a further six- or two-year term with effect from 1 January 2024.

A formal decision is now required from each PCC and PFCC within the Region to re-appoint the members identified above.

(b) RECRUITMENT OF FURTHER LEGALLY QUALIFIED CHAIRS

The Job Description, Person Specification, Fees and Expenses and other documents for the LQC role are set out in the application pack at Appendix A.

The recruitment advert was published via the Judicial Appointments Commission, the Law Society Gazette, Counsel magazine, the Black Prosecutors Association, the Association of Police and Crime Commissioners, Regional PCC / PFCC websites, through circulation to APACE Chief Executives, and existing LQCs nationally through the National Association of Legally Qualified Chairs.

The advert was published from 16 August 2023 with a closing date for applications of 25 September 2023. Two hundred and thirty one completed applications were received an increase from one hundred and two in 2019. Three officer representatives from the Regional OPCCs (Essex, Hertfordshire and Norfolk) shortlisted these for interview by considering and discussing the applicants against the essential and desirable criteria set out in the Person Specification (Appendix A). The candidates selected were those that were considered to best meet the criteria.

Twenty-eight candidates were shortlisted for interview. Two candidates then withdrew their applications. Interviews for the remaining candidates took place on

7th, 8th, 9th, 13th and 14th of November in Chelmsford (in view of its accessibility by train from London).

The interview panel comprised Christopher Jackson, Chief Executive, Suffolk OPCC, Darren Horsman, Strategic Head of Policy and Public Engagement, PFCC for Essex's office and Pauline McIntosh, Head of People Services - Norfolk & Suffolk HR.

The interview questions were based on previously used questions to ensure the key qualities and abilities of the candidates could be tested within 30 minutes. In addition, the information already contained within the candidates' application forms was also available to assess candidates.

The questions posed were:

- Could you please tell us why we are selecting LQCs and what skills and qualities you bring to the role?
- As chair, what role do you think the Panel members have? How would you deal with any disagreement? If you were selected what challenges for you personally might this role have?
- How would you deal with potential conflicts of interest any concern that became apparent during a hearing?

The Interview Panel marked the interviewees against the Qualities and Abilities contained within the Person Specification (Appendix A). At the conclusion of the interviews, the interview panel selected 18 candidates to be recommended for appointment. These candidates were those judged by the panel to best meet the qualities and abilities required for the role. One selected candidate has since withdrawn from the process leaving 17.

The names of the candidates recommended by the interview panel for appointment and remaining in the process are:

Adrian Phillips
Kathryn Seward
Francesca Keen
Gregor McGill
Matthew McNiff
Kamran Choudhry
Stephen Chappell
Morag Rae
Jennifer Ferrario
Sue Sharma
Caroline Sellars
Alexander Wilson
Alesdair King
Graham King

Timothy Bradbury
Christopher Lester
Zeenat Islam

References for all the recommended candidates have been taken up and have been found to be satisfactory. It has also been checked that all candidates are either members of the Law Society, Bar Counsel or alternative professional legal body.

In accordance with National Police Chiefs' Council policy, no vetting is required. The Member Misconduct Oversight Panel takes the view that unless there are exceptional circumstances all new candidates, who have not undertaken training as an LQC for a role elsewhere in the country, should attend training before their period of service as an LQC commences.

A formal decision is now required from each PCC within the Region to reappoint the 18 candidates at 4(a) as LQCs for the Eastern Region and appoint the 17 candidates listed in 4(b) with effect from 1 January 2024 or the date they complete satisfactory training, whichever is the later.

Monitoring information from all applicants was gathered and has been collated. The Member Misconduct Oversight Panel will consider the publication of this information in due course. Of the 17 candidates recommended for appointment 11 were men and 6 were women; 5 were from minority groups. With the appointment of the 17 candidates recommended for appointment, the Eastern Region Panel of LQCs will have a strength of 35, one more than our target, when the re-appointed chairs are added to the newly selected chairs. While slightly over our target number given the short 2-year term of 7 LQCs being reappointed, the trajectory of misconduct hearings across the region combined with the fact that a number of the new applicants were assessed as at the same level it was decided it was preferable to go slightly over target then under.

5. Options Analysis

It was considered whether we shouldn't reappoint any existing LQC and proceed with a totally new list of LQC. However, given past performance and the need to ensure consistency, it was decided to go for a mix of reappointment and new appointments. This had the added benefit of ensuring a degree of consistency in our regional list of LQCs

We also considered not proceeding with an appointment process but staying with our existing list of LQCs given the uncertainty around the role nationally. However, given feedback from the different areas and concerns about the sustainability of the list combined with negative impact on public confidence if the system does not work well, we discounted this option.

6. Consultation and Engagement

Throughout the process we consulted all of the PSD teams across the six policing areas, we engaged the National Association of Legally Qualified Chairs, the

Association of Police and Crime Commissioners as well as the Bar Counsel, Law Society and Judicial Appointments Commission specifically around recruitment.

7. Strategic Links

An efficient and effective misconduct system is essential to maintain public confidence and ensure officers and staff have confidence in the independent and fair process. The appointment and re-appointment of these LQCs is a fundamental element in ensuring this process works effectively and as such is of vital strategic importance, and clearly linked to the Commissioner's Police and Crime Plan.

8. Police operational implications

All Professional Standards Departments in the region have been engaged by the Member Misconduct Oversight Panel. This decision will support the operational activity of Essex Police.

9. Financial implications

Very limited costs have been incurred by the Region in the recruitment process and have comprised advertisement and venue hire. The total cost of these activities were £4,538. This is being split between the seven areas (including the Ministry of Defence Police) on a Net Revenue Expenditure (NRE) as set out below. This method of splitting costs between the organisations has been in place for a number of years. This cost to Essex of £1,132 will be charged to the PFCC Misconduct Hearings Budget. Based on our current forecasting the £1,132 charge for Essex below, together with a further £3,000 on training, are expected to be the only charges against the £12,000 budget for misconduct hearings in 2023/24.

Force	NRE £m	Share of total	Organisation cost (£)
Bedfordshire	139.938	9.59%	435
Cambridgeshire	177.634	12.17%	552
Essex	363.687	24.91%	1,132
Hertfordshire	253.501	17.37%	788
Norfolk	199.854	13.69%	621
Suffolk	154.510	10.58%	480
MoD	170.621	11.69%	530
Total	1,459.744		4,538

10. Legal implications

The appointment and reappointment of LQCs will be based on the terms and conditions attached as Appendix 9, subject to minor insubstantial changes to reflect governance arrangements within the Ministry of Defence police and which would not alter the commitments of the Commissioner.

11. Staffing implications

This decision will establish a refreshed regional panel of 35 LQCs with a sitting strength of 31.

12. Equality, Diversity and Inclusion implications

Significant effort was taken to encourage applications from a wide range of diverse candidates including contacting the Black Prosecutor's Association, the Law Society and Bar Council to seek support and guidance in reaching a more diverse talent pool. This appears to have resulted in an increase in the diversity of candidates applying and being successful.

13. Risks and Mitigations

The government is currently considering changes to the role of LQCs with a variety of possibilities appearing in the media. No decision has been made and no clear direction has been communicated. Once a clear direction has been developed alongside a timeline, it will be necessary to consider the impact on the current list of LQCs and whether they can be transferred straight across to this new role, or if a different approach is required. Whatever the outcome the options available to mitigate this situation will be greater if we have a strong current pool of LQCs, so this decision will help mitigate this risk.

14. Governance Boards

This decision and the recruitment process in general has been discussed at the Commissioner's Senior Management Team and Management Team.

7. Links to Future Plans

In 2024 the pool of Independent Panel Members will come to an end requiring a significant recruitment exercise to ensure a new pool is available by July 1st 2024. Plans are in place to deliver this and a further decision report will be provided setting it out.

16. Background Papers and Appendices

- 1 LQC – Job Description
- 2 LQC – Person Specification
- 3 LQC – Information for Candidates
- 4 LQC – Judicial Eligibility Conditions
- 5 LQC – Eligibility Clauses
- 6 LQC – Fees and Expenses
- 7 LQC – GDPR Privacy Notice
- 8 LQC – Application Form
- 9 LQC – Terms of Appointment
- 10 LQC – Police Misconduct Panel Advert

Report Approval

The report will be signed off by the PFCC’s Chief Executive and Chief Finance Officer prior to review and sign off by the PFCC / DPFCC.

Chief Executive / M.O.

Sign: 

Print: Darren Horsman - Deputy MO

Date: 18/12/2023

Chief Finance Officer

Sign: 

Print: Janet Perry

Date: 18 December 2023

Publication

Is the report for publication?

YES

NO

If ‘NO’, please give reasons for non-publication *(Where relevant, cite the security classification of the document(s). State ‘None’ if applicable)*

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If the report is not for publication, the Chief Executive will decide if and how the public can be informed of the decision.

Redaction

If the report is for publication, is redaction required:

1. Of Decision Sheet? YES
NO

2. Of Appendix? YES
NO

If 'YES', please provide details of required redaction:
Names of the LQCs should be redacted.

.....
Date redaction carried out:

Chief Finance Officer / Chief Executive Sign Off – for Redactions only

If redaction is required, the Chief Finance Officer or Chief Executive is to sign off that redaction has been completed.

Sign:

Print:

Chief Executive / Chief Finance Officer

Date signed:

Decision and Final Sign Off

I agree the recommendations to this report:

Sign: 

Print: Roger Hirst

PFCC

Date signed: 19/12/2023

I do not agree the recommendations to this report because:

.....
.....
.....

Sign:

Print:

PFCC/Deputy PFCC

Date signed: