

PFCC Decision Report

Please ensure all sections below are completed

Report reference number: 088-24

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

Title of report: Independent Panel Member Appointment and Reappointment and Appointment of Legally Qualified Advisors

Area of county / stakeholders affected: Countywide

Report by: Darren Horsman

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Date of report: 20.6.2024

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1. Executive Summary

Following the successful recruitment of our latest batch of Legally Qualified Chairs in 2023, it was necessary to recruit a new cadre of Independent Panel Members. This coincided with changes to the regulations and guidance around Police Misconduct Hearings. This decision report sets out the recruitment of Independent Panel Members and the changes proposed to ensure the Eastern Region is well prepared for the new regulations. These changes include the extension of our existing Independent Panel Members (IPM) for two years and the appointment of some of our Legally Qualified Chairs (LQC) as Legally Qualified Persons (LQP).

2. Recommendations

- That the PFCC appoints, once appropriate reference checks have been completed, the list of people identified in section 3 as Independent Panel Members for a period of five years on the Terms and Conditions attached as Appendix C. Those IPMs with IPM 2 next to their name will be able to sit as either IPM 1s and IPM 2s. Those with IPM 1 next to their name will be able to

sit as IPM 1s not IPM 2s. These terms and conditions include increases in fees paid to IPMs which are in line with those introduced in other areas of the country. These are spelt out in more details in the finance section below.

- That the PFCC appoints, once appropriate reference checks have been completed, the list of people identified in section 3 as existing Independent Panels Members for a further period of two years on the Terms and Conditions attached as Appendix C. These IPMs, because of their experience, will be able to sit as IPM 1s and IPM 2s. These terms and conditions include increases in fees paid to IPMs which are in line with those introduced in other areas of the country. These are spelt out in more details in the finance section below.
- That the PFCC appoints the Legally Qualified Chairs identified in section 3 as Legally Qualified Persons. The appointment period will align to their existing appointment terms, as set out in the paper, as a Legally Qualified Chair on the Terms and Conditions attached as Appendix A. The new contract will cover their appointments as both a Legally Qualified Advisor and Legally Qualified Chair.
- That the PFCC agrees the revised appointment selection of Misconduct Panels and Police Appeal Tribunal Policy. See appendix B.
- The PFCC agrees to increase the daily fee paid to Audit Members to that set out in the IPM terms and conditions in order to maintain the link with the IPM role which has been the basis for audit committee remuneration to date. It is estimated that this will increase audit member cost by £13,256 per annum.

3. Background to the Proposal

The Police and Crime Commissioner is required to maintain a list of independent persons to sit on misconduct hearings under the Police (Conduct) Regulations 2020. The six police and crime commissioners in the Region maintain a joint list and have done since 2014. The Ministry of Defence Police are also joining this arrangement.

In 2014 the Eastern Region police and crime commissioners acted together to compile and maintain a list of Independent Panel Members to sit on the misconduct hearings as held across the Region (Bedfordshire, Cambridgeshire, Essex, Hertfordshire, Norfolk and Suffolk).

Eighteen Independent Members were selected and appointed to serve across the Region. The term of appointment, commencing on 1 June 2014, was for an initial five-year period, subject to a further period of service, if agreed following review.

During 2018 the Member Misconduct Oversight Panel (MMOP), comprising officers from each of the offices of police and crime commissioners across the Region, considered the arrangements for the recruitment of further Independent Members and/or the current Independent Members.

Out of the 15 IPMs serving and active, 14 wished to be considered for re-appointment. All 14 IPMs who wished to be re-appointed had attended training, had all sat regularly and no issues had been raised about their service by PSDs.

In the light of these factors, the MMOP took the view that all 14 Independent Members should be recommended for appointment and further that there was no pressing need to progress to a recruitment process to secure further Independent Members.

This second term of service concludes on the 31st of May 2024. Following this period all the remaining IPMs will have served for ten years, the recommended maximum number of years that an IPM should serve.

In preparation of this, the MMOP set out a recruitment process to select a new batch of IPMs. The opportunity was promoted via all six areas with efforts being taken to reach a wide and varied selection of potential candidates. The deadline for applications closed on the 28th of January 2024 and 57 people applied.

Shortlisting was undertaken by the Essex MMOP representative, the Bedfordshire MMOP representative and an HR specialist from Essex Police. Thirty-eight people were interviewed by a panel consisting of the Essex MMOP representative, the Norfolk MMOP representative and the HR specialist from Essex Police. All MMOP members were invited to participate. The interviews took place over five days in person and online. Following this process 18 candidates are being put forward for appointment as set out below.

Changes to Regulations

In January 2023, the Government launched its review into the process of police officer dismissals. The following August the Government announced substantial changes to the police misconduct, vetting and performance systems.

The first stage of these changes involved changes to police conduct regulations through the Police (Conduct) (Amendment) Regulations 2024. These were laid in parliament on 16th of April and came into force on the 7th of May 2024.

These Regulations were being developed during the IPM recruitment process and primarily amend the composition of misconduct panels, removing the role of Legally Qualified Chair (LQC) and giving responsibility for chairing non-senior misconduct proceedings to chief officers, or their delegate.

They also introduced a new legal advisor role which will provide misconduct panels with advice on legal and procedural matters. This means that panels for non-senior officers will now consist of a chair and two independent panel members.

Under the draft Home Office guidance, the Independent Members selected in accordance with Regulation 28(4)(b) will, in addition to the first IPM, be required to have qualifications, experience or be able to demonstrate certain competencies which are relevant for the purposes of disciplinary proceedings. It is stated that this could include, but is not limited to, those who:

- can demonstrate a commitment to setting standards through senior leadership roles in other organisations or sectors,
- hold expertise in Human Resources,
- or have experience of professional disciplinary processes.

While this guidance is draft it is not anticipated that it will be substantially more prescriptive as the regulations are quite clear. Several of our recommended IPMs have relevant experience and have been identified below with a IPM 2 put next to their name. Once appointed it is recommended that they sit as IPM 2s. This would mean that they are able to sit as either IPM 1s or IPM 2s as required.

The amended regulations are not retrospective so parallel regulatory systems need to be maintained for up to two years while existing cases work their way through the system. The increase in the number of IPMs on each panel also increases the anticipated demand for IPMs. To mitigate these issues the MMOP recommend that our existing IPMs are offered a further contract of two years. This is allowable under the current regulations, allows resilience within the system and provides sufficient time for the cases under the old regulatory system to conclude. It also avoids the need to train our new IPMs on both the old and the new regulations.

The MMOP, in considering the reappointment of existing IPMs, considered the following issues:

- the wishes of the current IPMs in being re-appointed,
- the number of hearings undertaken by the IPMs,
- feedback from Professional Standards Departments (PSDs) as to the performance of any of the IPMs from the misconduct hearings.

Following this consideration, it is recommended that 11 of the existing 12 IPMs be reappointed for a further two years. These IPMs, once trained in the new regulations, will be able to sit as either IPM 1s or IPM 2s.

Further to the recommended reappointment of the IPMs, the MMOP also considered the appointment of Legally Qualified Chairs as Legally Qualified Persons. Given the recent decision in December 2023 by PFCC's across the region to appoint and reappoint Legally Qualified Chairs, as set out in decision report 186-23, the MMOP approached the current LQCs for indications of interest in sitting as Legally Qualified Persons. Twenty nine have indicated that they would like to be appointed as Legally Qualified Persons under the new Terms and Conditions set out in Appendix A and these are identified below.

New Independent Panel Members for initial term of five years

Jacqui Adams	(IPM 2)
Clive Manning	(IPM 2)
David Corbino	(IPM 2)
Carlene Cornish	(IPM1)
Susannah Dengate	(IPM 2)
Stevie Jones	(IPM1)

Simon Williams (IPM 2)
Anne Gibson (IPM 1)
Jeremy Webster (IPM 2)
Debbie Wootton (IPM 2)
Brian McAlley (IPM 2)
Jennie Mattin (IPM1)
Lubna Hameed (IPM1)
Dr J Lafferty (IPM1)
Hope Osayande (IPM1)
Selena Gill (IPM1)
Mr Chris Taylor (IPM 2)
Kevin Rogers (IPM 2)

Reappointment of existing Independent Panel Members for a further two years

Diane Carter
William Couves
Peter Gratton
Richard Gutowski
Shirley Hurdle
John Jones
Elizabeth McEwan
Victoria Miller
Simon Paley
Rebecca Stephens
Margaret Walsh

Legally Qualified Advisors all recruited on a five year term

Mr John Bassett
Mr Trevor Jones
Ms Monica Daley-Campbell
Mr Neil Dalton
Miss Francesca Del Mese
Mrs Lyndsey De Mestre KC
Mr Stephen Gowland
Mr Andrew Hearn
Mr Harry Ireland
Mrs Jane Jones
Mrs Sharmistha Michaels
Mr David Tyme
Mr Timothy Bradbury
Mr Stephen Chappell
Mr Kamran Choudhry
Mrs Jennifer Ferrario
Mrs Zeenat Islam
Mrs Francesca Keen
Mr Alesdair King
Mr Graham King
Mr Christopher Lester
Mr Gregor McGill
Mr Matthew McNiff

Mr Adrian Phillips
Ms Morag Rae
Mrs Kathryn Saward
Mrs Caroline Sellars
Mrs Su Sharma
Judge Alexander Wilson

4. Proposal and Associated Benefits

The proposed appointment and reappointments set out in the recommended decisions will provide the PFCC with reassurance that there are sufficient Legally Qualified Persons and Independent Panel Members to deliver an effective Police Misconduct Hearing process.

This is important to ensure that cases of police misconduct are heard appropriately and in a timely manner, that officers who should not be in the force are removed and those who are on restricted duties awaiting a hearing are heard quickly and where appropriate are able to return to their duties.

The recommendations around adoption of the new selection policy will ensure the PFCC is fulfilling their duty to publicly demonstrate how IPMs and LQPs are selected.

5. Options Analysis

The PFCC has the option not to accept these recommendations, however, given that they have a statutory responsibility to recruit and provide both Legally Qualified Persons and Independent Panel Members for Police Misconduct Hearing this option is not recommended.

The PFCC could decide to exit the regional arrangements and recruit and appoint LQPs and IPMs independently however this would be more costly and provide less resilience. Given the system has worked well for ten years this approach is not recommended.

5. Consultation and Engagement

Throughout the process the MMOP has stayed in close contact with the Association of Police and Crime Commissioner's Chief Executive's Association complaints network, they have sought input from LQCs and in the recruitment of IPMs have also liaised with the Magistrates' Association.

The MMOP through their respective members have also liaised with each PSD in the area.

7. Strategic Links

The handling of police complaints has a direct impact on confidence in policing which is fundamental to the police and crime plan. Supporting an effective and efficient complaints system is also important to ensure the force is properly resourced and staffed.

8. Police operational implications

The decisions in this report will support an effective police misconduct complaint system which in turn will support operational policing.

9. Financial implications

The revised Police (Conduct) (Amendment) Regulations 2024 have changed the members of a police misconduct hearing panel so each hearing will have two IPMs and an LQP. This means the cost for each hearing will increase.

In parallel to the development of the Police (Conduct) (Amendment) Regulations 2024 The Mayor's Office for Policing and Crime (MOPAC) commissioned a review of the fees paid to IPMs, and Hays Executive carried out an independent benchmarking exercise against the wider marketplace. This was the first time the fees paid to IPMs had been reviewed in the 10 years since the role was introduced. Their review of 36 datasets from comparable panels found that similar roles attracted fees of between £300 per day (at the lower quartile) and £389 per day (at the upper quartile). Researchers found a market median of £350 per day and an average of £357 per day.

The fee paid to Independent Panel Members is a matter for local determination by each Elected Local Policing Body though there has in practice been consistency of approach across police force areas nationally. This led to a recommendation being presented to the Association of Policing and Crime Chief Executives (APACCE) on 15 March 2024 that all Elected Local Policing Bodies consider increasing the fee paid to IPMs for attending panels, from £211.50 to £357 per day, and increasing the fee paid for preparation and follow up, from £15 per hour to £25 per hour.

PCCs across the Eastern Region have decided to accept this new level of remuneration and these new levels are reflected in the terms and conditions for IPMs attached to this decision report with their daily rate increasing from £211 to £357.

The change of panel membership and the increase in fees for IPMs will increase the cost of running misconduct hearings.

The cost of convening misconduct panels is demand led, being influenced by both the number of misconduct cases progressing to the hearing stage and the duration of each hearing. Some hearings last a single day whilst more complex cases can take up to three weeks to conclude. It is therefore impossible to calculate the financial implications of the various options with certainty, though it is possible to provide an estimate.

In 2022/23, Essex Police held 19 hearings, of which 13 were misconduct hearings and six were accelerated misconduct hearings. In 2023/24, the force held 34 hearings, of which 14 were misconduct hearings and 20 were accelerated misconduct hearings. None of the accelerated misconduct hearings involved senior officers. In 2024/25, it is currently estimated for planning purposes that there will be 43 hearings, of which 15 will be misconduct hearings and 28 will be accelerated misconduct hearings.

For the purposes of the calculations below, it has been presumed that:

- It will take around six months for new cases to progress through the system to a misconduct hearing, so cases will start to be heard under the new regulations from October 2024.
- Any increase in fees applied in 2023/24 will be implemented with effect from 1 June 2024, with any increases in subsequent years effective from 1 April of that year.
- The number of misconduct hearings convened by Essex Police will increase by one per year.
- Each misconduct hearing will last an average of three days.
- Whilst the number of accelerated misconduct hearings is expected to increase at a greater rate than misconduct hearings, none are expected to involve senior officers, so none are expected to require the services of Independent Panel Members.

Once the new regulations are fully implemented (i.e. all misconduct cases are being heard under the new regime), the daily cost of a misconduct hearing will increase by 70% from £722.50 (for one LQC and one IPM) to £1,225 (for one LQA and two IPMs). The anticipated financial impact over the next three years is set out below:

2024/25 (estimated 15 misconduct hearings)		
2 cases under old regs	1 LQC @ £511 per day x 6 days	£3,066
at old fees	1 IPM @ £211.50 per day x 6 days	£1,269
5 cases under old regs	1 LQC @ £511 per day x 15 days	£7,665
at new fees	1 IPM @ £357 per day x 15 days	£5,355
8 cases under new	1 LQA @ £511 per day x 24 days	£12,264
regs at new fees	2 IPMs @ £357 per day x 24 days	£17,136
	Estimated total cost 2024/25 (15 misconduct hearings)	£46,755
	Estimated total cost 2023/24 (14 misconduct hearings)	£32,513
	Estimated total cost increase	£14,242 43.80%

These fees are paid from the Essex Police budget and the changes to them have been flagged with the relevant budget holder and Essex Police Finance.

There is also a link between the proposal put forward to APACCE and the fees paid to Independent Audit Committee Members, as the day rate paid to IPMs has historically also been set as the fee paid to Independent Audit Committee Members, both locally and nationally. Any increase in the day rate paid to IPMs would therefore also trigger an increase in the fees paid to Independent Audit Committee Members if this link is to be maintained.

The costs of these meetings are to some extent also demand led, in as much as they depend on attendance and vacancy rates, the number and complexity of papers (which influences the preparation time required) and whether any extraordinary meetings are convened, or the Committee needs to sit as the Auditor Panel. During 2020/21, 2021/22 and 2023/24, however, the outgoing Independent Chair claimed an average of £10,546 p.a., equivalent to nearly 50 days p.a. (note that he made no claims in 2022/23 due to being primarily engaged in other work). Over the past five

years, other Independent Committee Members have claimed an average of £2,082 p.a., equivalent to nearly 10 days p.a. (though it should be noted that no claims have yet been received from the two newest members of the committees). If all four Independent Members claimed at the same rate, the average annual cost of the Audit Committees based on current fees would be £18,874.

Independent Chair	50 days p.a. @ £357	£17,850	
4 x Independent Members	40 days p.a. @ £357	£14,280	
Total estimated annual cost		£32,130	
Total current annual cost		£18,874	
Estimated annual cost increase		£13,256	70.23%

These costs were not factored into the forecast budget for 2024/25 so will be taken from the PFCC underspent reserve. For 2025/26 onwards these anticipated additional costs will be factored into our budgeting process and will come from our overall audit costs within the PFCC budget.

10. Legal implications

The revised Police (Conduct) (Amendment) Regulations 2024 have been laid in parliament and came into force on the 7th of May. As such the PFCC has a legal obligation to comply with them. As set out above the recommendations set out above align to the new regulatory system and ensure the PFCC complies with them.

11. Staffing implications

There are no direct staff implications from this decision.

12. Equality, Diversity and Inclusion implications

As with the recruitment of Legally Qualified Chairs in 2023, significant effort was put into raising awareness of the IPM posts to a wide range of communities. Each area shared it through their local networks, partners and wider stakeholder groups. Local diversity groups were also used to spread this to communities that aren't always as well represented as they should be. Areas also used newsletters and social media to encourage recruitment.

ADD diversity stats.

13. Risks and Mitigations

There is the risk that the reference checks for some of the new IPMs will not be adequate and appointment will not be able to proceed. To mitigate this risk the recommended decision specifically states that the appointment is only to be made after these have been completed adequately.

As with any new regulatory system there is the chance that unknown problems will arise through the process. The MMOP has taken a proactive approach to recruitment to minimise the potential impact of any unforeseen changes and ensure there are sufficiently qualified and trained people to manage any additional workload or issues.

Some areas have adopted a wait and see approach to the regulatory changes which means they are only just starting their recruitment now. To avoid this risk we continued with our existing recruitment process and adapted this process to deliver an effective system that works within the old and new regulatory system.

14. Governance Boards

This topic has been discussed at regular points at the PFCC's Senior Management Team over the last twelve months. The regulatory changes were presented on the 7th of May and proposed changes by the government were discussed throughout 2023 with the PFCC providing feedback where possible into that development process.

15. Links to Future Plans

This is not linked to any specific future plans but will inform the development of the Police and Crime Plan 2024-2028, and the PSD quarterly scrutiny process.

16. Background Papers and Appendices

Appendix A – Legally Qualified Person Terms and Conditions
Appendix B – LQP – Job Description
Appendix C – LQP – Judicial Eligibility Condition
Appendix D – LQP – Eligibility Clauses
Appendix E – LQP – Fees and Expenses
Appendix F – LQP – GDPR Privacy Notice
Appendix G – Eastern Region – IPM – GDPR Privacy Notice
Appendix H – Eastern Regions – IPM – Memo of Understanding
Appendix I – Eastern Regions – IPM – Terms of Appointment
Appendix J – Selection of Misconduct Panels.
Appendix K – S 22a agreement

Appendix - Selection of Misconduct Panels and Police Appeal Tribunal Policy
Appendix C – Independent Panel Members Terms and Conditions
Appendix D – Section 22 agreement

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: 1/7/2024.....

Chief Financial Officer

Sign:



Print: Janet Perry

Date: 29 June 2024

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:

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Date redaction carried out:

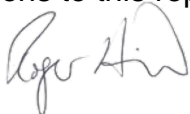
Chief Finance Officer / Chief Executive Sign Off – for Redactions only

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

Please continue to next page for Final PCC Decision and Final Sign Of

Decision and Final Sign Off

I agree the recommendations to this report:

Sign: 

Print: Roger Hirst

PFCC

Date signed: 03/07/2024

I do not agree the recommendations to this report because:

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.....
.....

Sign:

Print:

PFCC/Deputy PFCC

Date signed: