



**OFFICE OF THE POLICE & CRIME
COMMISSIONER FOR THAMES VALLEY**

REPORT FOR INFORMATION / DECISION

Title: Appointment of Independent Police Misconduct Panel Members

Executive Summary:

The Police and Crime Commissioner is required to compile and maintain a list of independent panel members to sit on police misconduct panels.

Recent amendments to the police misconduct regime include:

- Preventing a police officer from resigning or retiring, without consent, when there are allegations that may result in the officer's dismissal from a police force [since January 2015]
- Requiring disciplinary hearings to be held in public [since 1 May 2015]
- Ensuring the chair of the hearing is legally qualified [from January 2016]

From January 2016 the Police and Crime Commissioner will be responsible for maintaining a list of qualified legal chairs to sit on police misconduct panels.

There are currently five independent panel members on the maintained list. As a result of an increase in the number of misconduct hearings being held and difficulties with current availability of independent members, this is causing delays and problems with listings. At the time of this report there are currently 15 hearings awaiting listing.

In addition to the above statutory changes to the complaints regime the Judicial Office has issued guidance regarding the membership of magistrates on any independent police misconduct list. This guidance states that it is inappropriate for serving magistrates to perform the role of independent members on police misconduct panels due to a conflict of interest.

The Police & Crime Commissioner is asked to review the current panel membership and approve steps to increase the panel membership both temporarily and for the longer-term.

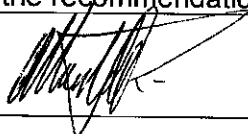
Recommendation:

1. Power to be delegated to the Chief Executive to make up to 10 temporary appointments to the independent panel members list for police misconduct hearings;
2. Approval to be granted to initiate a full advertisement and recruitment campaign for:
 - a. Appointment of independent panel members for a 4 year term commencing from the date of appointment
 - b. Appointment of legally qualified chairs for a 4 year term commencing from January 2016
3. To note potential increases in cost as a result of changes to the police complaints system arising from requirements for public hearings (from May 2015) and for legally qualified chairs (from January 2016).

Police and Crime Commissioner

I hereby approve the recommendation above.

Signature



Date

16.5.15.

PART 1 – NON-CONFIDENTIAL

1 Introduction and background

1.1 In April 2004, the complaints system for the police changed with the establishment of the Independent Police Complaints Commission (IPCC). The former police authorities, as part of the new system, were required to compile and maintain a list of independent people to sit on police misconduct panels.

1.2 The complaints system has since been the subject of a number of reviews and amendments. The Taylor Review on police disciplinary arrangements in January 2008 made recommendations about police disciplinary arrangements, which included:-

- (1) The introduction of the Standards of Professional Behaviour.
- (2) New arrangements for dealing with unsatisfactory performance and attendance (Police (Performance) Regulations 2008).
- (3) New arrangements for dealing with misconduct (Police (Conduct) Regulations 2008).

1.3 On 1 December 2008, the above regulations were implemented which also required independent people (from a list of candidates maintained by the then police authorities for the purposes of the Police Conduct Regulations) to sit on the panel at misconduct hearings.

1.4 The 2008 Regulations were replaced by the 2012 Regulations on 22 November 2012.

1.5 Misconduct hearings are required where dismissal could be the outcome and this is relevant where:-

- the panel will be considering gross misconduct, or
- the officer has a live final written warning/reduction in rank and there is a case to answer for a further act of misconduct.

1.6 More recent amendments to the police misconduct regime include:

- Preventing a police officer from resigning or retiring, without consent, when there are allegations that may result in the officer's dismissal from a police force [since January 2015]
- Requiring disciplinary hearings to be held in public [since 1 May 2015]
- Ensuring the chair of the hearing is legally qualified [from January 2016]

1.7 In addition to the statutory changes to the complaints regime the Judicial Office has issued guidance regarding the membership of magistrates on any independent police misconduct list. This guidance states that it is inappropriate for serving magistrates to perform the role of independent members on police misconduct panels due to a conflict of interest.

2 Potential impacts of the changes

- 2.1 As a result of the change preventing retirement or resigning of police officers before a misconduct hearing it is predicted that there will be an increase in the number of misconduct hearings held. This will increase the number of hearings that independent members are asked to attend. At current levels 15 hearings are awaiting listing. Thames Valley Police will struggle to avoid delay if the membership pool is not increased. An increase to the number of hearings will naturally also increase the costs incurred.
- 2.2 The move to public hearings will require confirmation from the current panel membership that they wish to continue in the role. As a result of public hearings they may find themselves named or even quoted in the press, which was not the case when they first applied to sit on what were predominately private hearings. This may reduce the membership pools for disciplinary panels and or those willing to apply for appointment. The requirement for public hearings could also see the costs of holding hearings increase, if hearing rooms are not able to be used at Thames Valley Police Headquarters and external venues are required to be booked and paid for.
- 2.3 The requirement for legally qualified chairs will require appointment for any given hearing from an approved list. The requirement to compile and maintain this list rests with the Police and Crime Commissioner. This is not required to commence until January 2016 but steps should be taken to ensure this is in place and ready for listings to be made. This will also result in an increase of costs. The fees and expenses of the chair will have to be met. Maximum costs are set by Home Office guidance, but nevertheless this is a new cost that is not currently incurred. Appropriate budgets provisions will therefore also need to be set.
- 2.4 The decision by the Judicial Office that serving magistrates are ineligible to sit on police misconduct hearings will reduce current membership lists that Thames Valley Police can call upon and also any potential pools of new applicants for appointment. The guidance issued is that any serving magistrate who has already taken up a position on a police disciplinary panel list as an independent member will need to decide whether to resign from it or from the magistracy.

3 Current Position with the listing of Police Misconduct hearings

- 3.1 Thames Valley Police have reported that there are currently 15 misconduct hearings awaiting listing. Difficulty is being encountered trying to list these matters without delay. This is partly due to insufficient availability of independent members. Action is also need to try and appoint a new independent member for a current listing, because the initial apportionment has been ruled as ineligible (as a result of being a serving magistrate).

4 Conclusion

- 4.1 As a result of current demand and changes to the police complaints system there is a requirement to increase the pool of independent members on the list maintained by the Police and Crime Commissioner. This is to ensure that police misconduct hearings can be listed in appropriate timeframes and without undue delay as a result of suitable panel members not being available.

- 4.2 It is therefore recommended steps are immediately taken to make temporary appointments of independent members to increase the current membership list, to address the immediate listing concerns.
- 4.3 A full recruitment exercise should be undertaken to ensure that there is a sufficient pool of independent members in the future.
- 4.4 The recruitment for new independent members can be run alongside recruitment for legally qualified chairs to ensure this is in place to fulfil the new statutory requirement coming into force from January 2016. Running the recruitment processes together will hopefully reduce the costs of having two separate exercises.

<p>Public access to information Information in this form is subject to the Freedom of Information Act 2000 (FOIA) and other legislation. Part 1 of this form will be made available on the website within 1 working day of approval. Any facts and advice that should not be automatically available on request should not be included in Part 1 but instead on a separate Part 2 form. Deferment of publication is only applicable where release before that date would compromise the implementation of the decision being approved.</p>
<p>Is the publication of this form to be deferred? No</p> <p>If yes, for what reason?</p> <p>Until what date?</p>
<p>Is there a Part 2 form? YES</p>

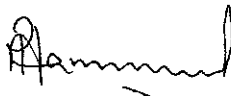
Name & Role	Officer
<p>Head of Unit The recommendations should adequately fulfil current demand and future listing needs of Thames Valley Police.</p>	Jacob Rickett
<p>Legal Advice The proposed recommendations will discharge the Police and Crime Commissioners statutory duties to maintain membership lists of police misconduct hearings.</p>	Jacob Rickett
<p>Financial Advice From January 2016 the PCC will have to pay for one qualified chairman and one independent member for each hearing. Home Office guidance specifies the daily rate payable to each. Unfortunately it is not possible at this stage to quantify the budgetary impact since we do not know, on average, how many cases will have to be funded each year and/or the number of days work required for each case.</p>	Ian Thompson
<p>Equalities & Diversity Any appointments will be made applying the Equality Duty and in compliance with the Equality Act 2010.</p>	Jacob Rickett

STATUTORY CHIEF OFFICERS' APPROVAL

We have been consulted about the proposal and confirm that financial and legal advice have been taken into account in the preparation of this report.

We are satisfied that this is an appropriate request to be submitted to the Police and Crime Commissioner.

Chief Executive



Date 14th May 2015

Chief Finance Officer



Date

15/5/15