

**APACCE**

Association of Policing and Crime Chief Executives

# **Legally Qualified Persons (LQPs)**

## **Police Misconduct Hearings and Police Appeals Tribunals Handbook**

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## About this Handbook

This Handbook is provided in order to support the work of Police and Crime Commissioners (PCC) and Legally Qualified Persons (LQP) for police misconduct hearings. The Handbook provides advice and guidance. It is **advisory only**, and in some Local Policing Body (LPB) areas there may be local differences in the way LQP arrangements are managed. For advice on this, LQPs should refer to their LPB.

For the purpose of consistency, this guidance refers to the role as LQP as defined in [The Police \(Conduct\) \(Amendment\) Regulations 2024](#) rather than Legally Qualified Advisors as it is referred to in the Home Office Guidance.

This Handbook should be read in conjunction with the relevant legislation and guidance below.

## Relevant Legislation

[The Police \(Conduct\) \(Amendment\) Regulations 2024](#)

[The Police \(Conduct\) Regulations 2020](#)

[Police Appeals Tribunals Rules 2020](#)

[Police \(Complaints and Misconduct\) Regulations 2020](#)

Criminal Justice Bill (Amendments to Police Appeals Tribunals Rules 2020) 2024  
**TBC**

## Relevant Guidance

[Home Office Conduct, Efficiency and Effectiveness: Statutory Guidance on Professional Standards, Performance and Integrity in Policing 2020](#)

[College of Policing Guidance on Outcomes in Police Misconduct Proceedings](#)

Home Office Interim Guidance on Police Misconduct Proceedings 2024 **TBC**

## Definitions of Terms

Chief Executive	The Chief Executive, Head of Service or equivalent, of the Local Policing Body
IPM	Independent Panel Members are defined as a “lay member” under 10(aa) of Schedule 6 to the Police Act 1996. This includes that an individual is not, and has never been, a member of a police force or special constable, civilian police staff member or staff member of a Local Policing Body. (Part 1 of the Police Reform and Social Responsibility Act 2011 (see section 102(3) and (5) of that Act).
LPB	Local Policing Body – the elected policing authority and those under their control.
LQP	Legally Qualified Person, appointed to provide legal guidance to the hearing panel.
PSD	Professional Standards Department / Unit (PSD/PSU)
AA	Appropriate Authority
Regulations	This generally refers to the relevant secondary legislation. Primary legislation and guidance are not covered under this term but are applicable as part of the wider disciplinary framework.

## 1. Background

- 1.1 Following a public consultation led by the then Home Secretary in the autumn of 2014, changes were made to the police disciplinary system for the purposes of more transparency, independence and justice. These included holding police misconduct hearings in public (from May 2015) and replacing Chief Police Officers who chaired hearings with Legally Qualified Chairs (LQC) from January 2016. The role and responsibilities of the LQC were subsequently strengthened in the Police (Conduct) Regulations 2020.
- 1.2 In January 2023, the then Home Secretary launched a review into the process of police officer dismissals, designed to ensure that the system is fair and effective at removing those officers who are not fit to serve. Following completion of this, the Government announced a series of reforms to strengthen the disciplinary system on 31 August 2023 and published [the final report](#) on 18 September 2023.
- 1.3 The report recommended a number of reforms that would be delivered in three tranches:
  - **Tranche 1** – Changes to the composition of misconduct panels.
  - **Tranche 2** – Wider changes to police misconduct, vetting and performance.
  - **Tranche 3** – Enabling chief officers to appeal to the Police Appeals Tribunal (as well as Police and Crime Commissioners (PCCs) where the officer concerned is the chief officer).
- 1.4 This guidance focuses largely on the changes implemented under Tranche 1 which were laid on the 7 May 2024 and new role of Legally Qualified Person (LQP).
- 1.5 The Police Misconduct Hearing Panel for non-senior officers is chaired by the chief officer – but this can be delegated to another senior officer, a former senior officer, or member of police staff, who the chief officer considers to be of an equivalent grade. Where a case substantially involves operational policing matters, **Regulation 2(4B)**<sup>1</sup> requires that the individual appointed to chair that misconduct hearing, or accelerated misconduct hearing, must be a senior officer or former senior officer. This is to ensure that the chair has an appropriate experience of operational policing.
- 1.6 Where a senior officer (i.e. above the rank of Chief Superintendent) is referred to a misconduct hearing or accelerated misconduct hearing, then the chair will depend on the rank of the officer concerned. For officers of the rank of Assistant Chief Constable, Deputy Chief Constable, Commander or Deputy Assistant Commissioner, the chair will be a more senior officer selected from a separate force. For all other senior officers, the chair will be His Majesty's Chief Inspector of Constabulary or HM Inspector (HMI) nominated by HMCIC.

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<sup>1</sup> [The Police \(Conduct\) \(Amendment\) Regulations 2024 \(legislation.gov.uk\)](#)

- 1.7 Where, for misconduct hearings or accelerated misconduct hearings in respect of a senior officer, the chair is a more senior officer appointed from a separate force, the chair must be selected by the chief officer of the originating force.
- 1.8 For other senior officers, where the chair is HMCIC, the local policing body shall be responsible for appointing the panel, including the chair. Where HMCIC decides to delegate that responsibility, the decision on which HMI to nominate is a matter for HMCIC.
- 1.9 In addition to the Chair, the Panel includes two Independent Panel Members appointed by the local policing body, from a list of persons maintained by a local policing body or other local policing bodies regionally or nationally, if required.
- 1.10 An LQP shall be appointed to advise in all cases where a panel is convened (i.e. all misconduct hearings plus accelerated misconduct hearings for senior officers).
- 1.11 The Police Misconduct Hearing Panel is likely to be convened to hear allegations of serious cases of misconduct by police officers. The most severe outcome at this hearing would be dismissal from the police service without notice. Cases would include for example, allegations of criminal acts, serious road traffic matters such as drink/driving and other serious breaches of the standards of [professional behaviour](#)<sup>2</sup> expected of police officers such as neglect of duty.
- 1.12 The Misconduct Hearing Panels will hear cases governed by the Police (Conduct) Regulations 2020, as amended by the Police (Conduct) (Amendment) Regulations 2024. For the purposes of this Handbook, all references will be to the 2020 regulations, as amended.
- 1.13 It should be noted that cases where the matter was brought to the attention of the Appropriate Authority prior to 1<sup>st</sup> February 2020 will be heard under the Police (Conduct) Regulations 2012 (amended by Police (Conduct) (Amendment) Regulations 2014 and 2015). For those cases where a Regulation 30 notice was issued before the 7<sup>th</sup> May 2024, they will be heard under the Police (Conduct) Regulations 2020. Should this be the case, a Legally Qualified Chair will be advised of the relevant regulations to be applied.
- 1.14 There is no direction given around vetting for LQPs, this is a matter for local discretion and will be determined by the respective PCC. If vetting is required by the local PCC for appointment, then this should be made clear to candidates from the outset and valid clearance will be a requirement as part of the terms of appointment.

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<sup>2</sup> Police (Conduct) Regulations 2020 Schedule 2 set out the Standards of Professional Behaviour.

## 2. Roles and Responsibilities

- 2.1 The primary legislation LQPs will need to be familiar with are the Police Act 1996, the Police Reform Act 2002 and the Policing and Crime Act 2017.
- 2.2 They will also need to be very familiar with the Police (Conduct) Regulations 2020, as amended by the Police (Conduct) (Amendment) Regulations 2024.
- 2.3 Part 3 of the Police (Conduct) (Amendment) Regulations 2024 describes the role and responsibilities of the chair of a misconduct hearing.
- 2.4 A significant difference between the Regulations as amended by the Police (Conduct) (Amendment) Regulations 2024 and those preceding it is the change in role and responsibilities of the chair and the addition of the LQP. The LQC in the 2020 regulations is responsible for managing the hearing from the outset whereas from the 7th May 2024, this is the responsibility of the Chief Officer and the LQP is there as an **advisor only**.
- 2.5 LQPs do not sit in a decision-making capacity. Their role is to advise the panel on legal and procedural issues relating to the misconduct proceedings. Whilst the LQP is expected to proactively provide advice where necessary throughout the proceedings, the chair may also require the LQP to provide advice to the panel on specific issues which arise. All panel members must have regard to any advice provided by the LQP.
- 2.6 LQPs should also sit in their advisory capacity during the pre-hearing stage, given that the pre-hearing is ordinarily where matters of law and procedure are discussed.
- 2.7 The chair may also require the LQP to provide advice relating to the preparation of the outcome report and may delegate responsibility for preparing that report to the LQP. Where the chair does so, the LQP must submit that report to the chair within 5 working days, beginning with the first working day after the hearing concludes. Where required, this period can be extended to 10 working days to enable the chair sufficient time to review the report.
- 2.7 If Misconduct is found outcomes include:
  - A written warning (subject to limitations)
  - A final written warning (subject to limitations)
  - Reduction in rank (in specified circumstances)
  - Dismissal without notice (in specified circumstances)
- 2.8 If Gross Misconduct is found outcomes include the following:
  - A final written warning (subject to limitations)
  - Reduction in rank (subject to limitations)
  - Dismissal without notice
- 2.9 Following the outcome of a hearing, the chair has five days to produce a written report outlining:

- The finding
- The reasons for the finding
- Any disciplinary action imposed
- Any direction that the matter be dealt with under the reflective practice review process

2.10 The default position is that this report is then published by the Appropriate Authority, though this can be withheld in certain circumstances, or a redacted version may be published.

2.11 The officer may, within 10 working days of being provided with a copy of the relevant decision, make an appeal to the Police Appeals Tribunal.

### 3. Roles Description

3.1 LQPs will have been appointed after making successful applications in accordance with selection criteria that have been agreed by the local policing body. LQPs must be able to demonstrate the competencies required for the role of panel adviser.

The recommended criteria are set out below.

#### Essential criteria

Satisfaction of the judicial appointment eligibility condition on a 5-year basis. See appendix 1.

### 3.2 Qualities & Abilities

3.2.1 Intellectual capacity:

- Quickly absorbs and analyses complex information with ease.
- Knowledge of the police disciplinary legislative framework, case-law and underlying principles, or the ability to acquire this knowledge.

3.2.2 An ability to understand and deal fairly:

- Shows awareness of equality and diversity issues that may arise in policing
- Committed to public interest, impartiality, and fair treatment.
- Listens with patience and courtesy.

3.2.3 Authority and communication:

- Inspires respect and confidence.
- Questions effectively.
- Engages constructively in debate and challenges others appropriately.
- Excellent presentation skills.

3.2.4 Efficiency:

- Works at speed, including when under pressure.

- Manages time effectively and produces clear reasoned advice expeditiously.
- Works constructively with others.
- Makes effective use of technology, including computers, video- and telephone-conferencing.

### 3.3 Principles of Standards in Public Life

3.3.1 Although not holders of public office as such, LQPs will be expected to abide by the Seven Principles of Standards in Public Life (The Nolan Principles)<sup>3</sup>. As such, the seven principles of conduct underpin the work of the local policing body and are used as the basis of the ethical standards expected of public office holders.

3.3.2 The Seven Principles of Standards in Public Life (The Nolan Principles) are:

- **Selflessness:** Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.
- **Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
- **Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- **Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- **Openness:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- **Honesty:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- **Leadership:** Holders of public office should promote and support these principles by leadership and example.

### 3.4 Standard eligibility clauses for Legally Qualified Persons

3.4.1 There is no upper or lower age limit for candidates for this post.

<sup>3</sup> [The Seven Principles of Public Life - GOV.UK](https://www.gov.uk/government/publications/the-seven-principles-of-public-life)

- 3.4.2 Candidates should be able to work across the force areas upon whose LQPs lists their names appear on. On occasions, LQPs may be asked to act for other areas and acceptance of these cases are at the discretion of the LQP.
- 3.4.3 Candidates must satisfy the judicial-appointment eligibility condition on a 5-year basis, as set out in section 50 of the Tribunals, Courts and Enforcement Act 2007. (See Appendix 1).
- 3.4.4 Personnel under the direction and control of any Constabulary/Police Force or local policing body in England and Wales will not be eligible to apply.
- 3.4.5 Qualified lawyers employed by any Constabulary/Police Force or local policing body in England and Wales will not be eligible to apply.
- 3.4.6 Candidates must be capable of fulfilling this post they have applied for. If a health condition constitutes a disability within the meaning of the Equality Act 2010, if appointed, reasonable adjustments will be considered on taking up office and during service.
- 3.4.7 Nationality: Candidates will need to fulfil one of the following nationality requirements -
- Be a citizen of the United Kingdom
  - Be a citizen of the Republic of Ireland
  - Be a citizen of a commonwealth country or
  - Hold dual nationality, one of which falls in one of the above categories
- 3.4.8 Misconduct panel members and legal advisors will both be subject to a statutory duty on conflicts of interest. This will require those individuals not to sit, or continue to sit, where there are circumstances which give rise, or could be reasonably be considered to give rise, to a conflict of interest.

An equivalent duty will also exist to prevent relevant bodies appointing individuals where such circumstances exist.

## 4. Appointments

- 4.1 Local policing bodies have a statutory duty to maintain a list of LQPs available to advise on Misconduct Hearings.
- 4.2 Most local policing bodies have collectively decided to maintain lists on a regional footprint, with LQPs required to be able to cover any force area within that region.
- 4.3 Individual LQPs are able to sit on the lists for more than one policing region.
- 4.4 LQPs held on the list of a LPB may act in any LPB providing they satisfy the eligibility and recruitment criteria.

- 4.5 It is recommended that an LQP contract has a term up to 5 years, with the possibility of further terms, subject to local agreement.
- 4.6 Opportunities to join local policing body LQP lists will be advertised on websites as well as through other specialist legal online portals.
- 4.7 Local policing bodies should pay particular attention to ensuring, where possible, that the pool of LQPs available is as diverse as possible to reflect the diversity of communities that the police service serves.
- 4.8 Regulation 12A requires an LQP to stand down from their role if they become aware that there are circumstances which may reasonably give rise, or may reasonably be considered to give rise to a conflict of interest in relation to their role as an LQP. If such a situation arises, the LQP should inform the Appropriate Authority and the local policing body as soon as possible.
- 4.9 Regulation 35(3) provides that the officer who is subject to the Misconduct Hearing has the right to object to the person appointed as an LQP. Any such objections must be submitted to the local policing body, and the local policing body will then decide, within three working days, whether to uphold or reject the objection. If such a situation arises, the local policing body shall inform the LQP of the objection and shall inform the LQP of their decision on whether to accept or reject the objection.

## **5. Fees and Expenses**

### **5.1 Fees**

- 5.1.1 The recommended rate of pay for an LQP is currently set at £511.56 per day for a full day (4+ hours, excluding meals breaks) and £255.78 per half day (under 4 hours).
- 5.1.2 These rates are payable for days when LQPs are advising Misconduct panels in progress and also when advising any pre-hearing held under regulation 33 or when communicating with relevant parties under regulation 29(4) when a pre-hearing is not held. They are not applicable for preparation work as this is covered separately (see 5.1.4).
- 5.1.3 It is recognised that a sitting of less than 4 hours, and when taking travelling time into account on the same day, may cause an LQP to give up a whole day for a half-day session. LQPs may claim for a full day sitting where the sitting is less than 4 hours (excluding meal breaks) and where hearing time and travel on the same day as the hearing together total over 7 hours.
- 5.1.4 A fee may be claimed at the rate of £85 for each hour necessarily spent in preparatory work or report writing. On occasion this may include additional preparation time where further evidence/documents/written submissions are provided to the Panel after the hearing has commenced; and time spent prior to the conclusion of hearings writing up decisions in order to ensure that hearings are not adjourned part-heard.

- 5.1.5 Where a hearing runs late, but not into a further day, then a long sitting allowance may be claimed. The long sitting allowance may be claimed where the length of a tribunal sitting exceeds 7 hours (excluding meal breaks). The allowance payable is 1/6 of the normal daily rate for each hour, or part thereof, in excess of 7 hours.
- 5.1.6 The maximum preparation and report writing fee that can be claimed is £1,050 for each misconduct hearing. This may be varied in more complex cases but only upon written agreement of the Chief Executive of the host local policing body.
- 5.1.7 The rate paid for attendance at training courses must be agreed by the LPB. It is recommended that LQPs attending training will be able to claim the full day rate to cover attendance at in-person training days. This approach recognises the time commitment in attending, but also recognises the value of the training LQPs will receive as part of their continuous professional development. LQPs would also be able to claim travel expenses outlined in section 5.4 of this handbook.
- 5.1.8 If a training course is held online, the half day rate may be paid, if the course lasts 4 hours or less.

## **5.2 Cancellations**

- 5.2.1 Whilst every effort will be made not to cancel Misconduct Hearings, there may be occasions when this is unavoidable.
- 5.2.2 Local policing bodies recognise that LQPs may have declined other work in order to advise on a hearing and have adopted the following approach to paying for cancelled days.
- 5.2.3 If a hearing is cancelled over two weeks in advance of the proposed date there will be no payment made, but the LQP's name will, with their agreement, be put back at the top of the list of available LQPs.
- 5.2.4 Where a hearing is cancelled 7-14 days prior to the commencement date the current half day rate will be payable for each of the days the hearing was expected to last, up to a maximum of five days.
- 5.2.5 Where less than seven days' notice is given, the full day rate will be payable for each of the days the hearing was expected to last, up to a maximum of five days.
- 5.2.6 In all cases of cancellation full payment for any preparatory work, will be paid as well as any time spent in pre-hearing meetings.
- 5.2.7 Withdrawal from a commitment to act as LQP without good reason by LQPs, especially if made to undertake other paid work, may result in an LQP being removed from a list following discussions with the LPB Chief Executive. For

the avoidance of doubt, withdrawal due to an existing professional commitment “overrunning” will be regarded as being with good reason. Similarly, provided sufficient notice has been given by the LQP to the local policing body to allow an alternative LQP to be appointed, where the withdrawal is due to the LQP being appointed to advise another police misconduct hearing, this will be regarded as withdrawal with good reason.

### **5.3 Hearing Length**

- 5.3.1 It is not always possible to accurately predict the length of time required to hear a case.
- 5.3.2 Under the amended 2020 Regulations, the Chief Officer or the person to whom they have delegated responsibility for chairing the hearing, is responsible for allocating the time to hear the case. It is expected that they use their experience, as well as advice from all relevant parties to allocate sufficient time for cases.
- 5.3.3 In the event that a case does not take as long as estimated, the LPB Chief Executive has discretion to authorise payment in respect of the “over-estimated” days at the current half day rate for each of those days, up to a maximum of five days. The expectation is that the LPB Chief Executive will exercise their discretion in favour of authorising such payment. In the event that they do not, full reasons therefore will be provided to the LQP.
- 5.3.4 The chair of the Hearing may delegate responsibility for the preparation of the Report (notification of outcome of misconduct hearing) to the LQP. In such cases, the LQP may claim expenses at the usual fee rate (see 5.1.4). The LQP is strongly recommended to confirm with the Chair at the outset whether they will be required to write the report.

### **5.4 Travel Expenses**

- 5.4.1 Where public transport costs are incurred these will be reimbursed in full on providing the relevant receipts.
- 5.4.2 Mileage will be reimbursed for mileage incurred travelling to and from any venue in relation to the work being undertaken. Mileage will be reimbursed at the HMRC vehicle rate, currently 45p per mile.
- 5.4.3 The vehicle, for which mileage is being claimed must be taxed, have appropriate insurance for business use and a valid MOT certificate (where applicable) at the time the journeys were made. Evidence of this may be requested for audit purposes.
- 5.4.4 Costs incurred for rail travel will be reimbursed at the standard rate and upon production of the ticket/receipt. Any costs incurred for first class rail travel will not be reimbursed.

- 5.4.5 All claims for travel expenses must have a completed claim form from the relevant local policing body, including a signed declaration that they were incurred in the performance of approved duties and that this expenditure has not been claimed from any other body in respect of the same duties.
- 5.4.6 Travelling allowances are designed to meet expenses incurred and are in no sense a form of remuneration. Please note that no liability can be accepted in the event of any accident, damage, injury or death whilst travelling or whilst undertaking hearing duties.
- 5.4.7 There is no provision for payment of travelling time, save for the circumstances set out in paragraph 5.1.3 above.

## 5.5 Accommodation and Subsistence

- 5.5.1 Wherever possible hearings will be timed to avoid the necessity for overnight stays. By prior agreement with the LPB, if travel to the hearing venue is likely to take more than one hour one-way (i.e. 2 hours return trip), LQPs may claim reimbursement for the cost of overnight accommodation up to a maximum of £126 per night<sup>4</sup>. Where local rates may exceed this figure, it should be agreed in advance with the LPB, who may also be able to book accommodation at a more favourable rate. This rate is made up as follows:
- Accommodation up to a limit of **£100** per night.
  - Plus, a flat rate allowance of **£26**. This allowance is intended to cover dinner and local travel (for example between hotel and the hearing venue) and also to cover miscellaneous expenses. No additional amount is payable.
- 5.5.2 LQPs should arrive at the hearing sufficiently early and refreshed to prepare for the hearing and meeting other panel members. In cases where the LQP has a journey of more than one hour, the LPB may agree to meet the cost of overnight accommodation the night prior to the first day of the hearing.
- 5.5.3 Where an overnight stay is not necessary, an allowance may be claimed for the necessary costs spent on meals (day subsistence). The allowance is based on the period during which the LQP is absent from home.

The rates are: -

- Absence of more than 5 hours and less than 10 hours - **£4.25**
- Absence of more than 10 hours - **£9.30**

This is a flat rate allowance which may be claimed whether the cost of meals was more, or less, than the actual amount of expenditure. It is not necessary for receipts to be provided. The allowance should not, of course, be claimed if a meal is provided free of charge.

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<sup>4</sup> It is accepted that in some areas accommodation will be more costly and a higher rate may be agreed locally with the LPB Chief Executive, prior to expenditure being incurred.

## **5.6 Other Expenses**

5.6.1 Postage and telephone calls etc necessarily dispensed in respect of the determination of the hearing may be claimed upon provision of documentary evidence. Where it is necessary for papers to be dispatched this should be done by registered post or special delivery to preserve the confidentiality of papers. Evidence of the cost should be provided with any claim.

## **5.7 Claiming Expenses**

5.7.1 All claims must be submitted on a completed claim form which must be signed. LQPs who wish to submit an invoice may include a copy of this with the completed claim form, but an invoice without a completed and signed claim form does not constitute an eligible claim.

5.7.2 VAT may be claimed by those LQPs registered for the purposes of VAT. In these cases, the VAT registration number should be shown on the completed claim form.

5.7.3 Upon appointing an LQP to advise at a hearing, each local policing body will inform the LQP of the process to be followed for the submission of a claim form/invoice. If a purchase order is required, the local policing body will organise it upon appointing the LQP. Any queries about the provision of or completion of claim forms should be addressed to the local policing body for the force area in which the case is being heard.

## **6. Indemnity**

6.1 While some LQPs have private professional practices, for example as Solicitors or Barristers, they do not generally regard acting as an LQP as part of those practices. As such, when acting as LQPs, they may not be covered by their professional indemnity insurance as they are appointed to do so by PCCs. Those LQPs who act in a private capacity may not have such cover or be able to arrange it.

6.2 Concerns have been raised about potential liabilities, or exposure to Judicial Review. The outcome of a misconduct hearing is based on a joint decision of the panel, though there are certain technical decisions relating to the hearing process that are vested with the chair. The Panel should have regard to the advice of the LQP in reaching its determination. LQPs should take steps to secure professional indemnity to cover any liability arising from their role providing legal advice to the misconduct hearing.

6.3 The officer concerned may appeal to a Police Appeals Tribunal against the Panel's decision on finding and/or outcome. LQPs and the Misconduct Panel members play no part in any such appeal. However, decisions of the Panel may be liable to challenge in the High Court by way of Judicial Review. Such a challenge might include reference to the legal advice that has been provided by the LQP. If an application for Judicial Review is made, the Panel and/or the Chief Constable will be named as the Defendant in the proceedings.

- 6.4 Independent legal advice has been sought by a number of LPBs on this issue, in relation to indemnity for legally qualified chairs acting under the 2020 Regulations. While they have been advised that there is no legal *necessity* for a PCC to indemnify LQCs there could be a *desirability* argument put forward. In practice, it is unlikely that the indemnity will have to be called upon in Judicial Review proceedings because LQPs/Panels seldom, if ever, participate in such proceedings beyond filing an Acknowledgment of Service indicating that, as a Tribunal, they will not take part in the proceedings.
- 6.5 It was agreed that the following is an appropriate form of indemnity for LQCs, and it is considered that this indemnity remains suitable for LQPs, until such time as further national advice is provided to resolve the uncertainties around liability. PCCs are recommended to offer the following indemnity to LQPs:  
*“In respect of the case of ..... which is to be held on ....., I (in my role as Police and Crime Commissioner) agree to indemnify you as the Legally Qualified Person 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 to which you have provided legal and procedural advice, I agree to indemnify you in full in respect of any such liability.”*  
 Unless the local policing body already is aware of the claim, the LQP will notify them of the claim as soon as practicable and, in any event, within 7 days of his/her having knowledge of the claim. Where the indemnity is offered, this will also cover a pre-hearing.
- 6.6 PCCs have agreed that the indemnity set out in paragraph 6.5 above will be periodically reviewed.

## 7. Training and Development

- 7.1 All LQPs must be in possession of the relevant legal qualifications in order to undertake the role.
- 7.2 In addition to legal qualifications, training as deemed appropriate by the appointing local policing bodies will be delivered to LQPs on the relevant Police Regulations as well as other aspects of the role such as Equality & Diversity etc.
- 7.3 A bespoke training package will provide LQPs with the necessary knowledge and skills to undertake their role. However, this does not include Equality & Diversity training as this and similar training is a specialist area. Such training will be provided to LQPs by appropriate specialists engaged by the local policing bodies.
- 7.4 PCCs have agreed that they will jointly organise the training to ensure LQPs have the skills required.

- 7.5 All LQPs must complete relevant training in order to advise a Misconduct Panel. Local policing bodies may make an exception to this, in the case of an LQP who already has significant experience acquired as a result of acting as an LQC under the 2020 Regulations.
- 7.6 Where an LQP sits on lists across multiple police areas it is expected that they only need to complete the training once.
- 7.7 Should there be changes in regulations, the Association of Police and Crime Chief Executives (APACCE) and the Association of Police and Crime Commissioners (APCC) will work together to arrange suitable training to be developed.
- 7.8 There may be occasions where local training sessions or events are put on in local/regional areas, this is in addition to the standard training all LQPs are required to complete and it will be down to local PCC discretion as to the status of the training (i.e. is it mandatory).
- 7.9 Fee and expenses arrangements for attendance at training events are dealt with in Section 5 of this handbook.

## **8. Selection of an LQP**

### **8.1 Key Principles**

- 8.1.1 It is widely agreed that for LQPs to be effective, and to allow for a trusted and equitable misconduct process, they need to be selected on a consistent basis. To assist in this process, LPBs will remain in close consultation with PSDs given their knowledge of the case and awareness of various parties' availability, in order to effectively appoint LQPs to each hearing.
- 8.1.2 The 2020 Regulations provide a clear timetable for misconduct proceedings and, consequently, LQPs should be provided with the case papers and other evidence (such as video recordings) as early as possible in the process, and without undue delay. There may be occasions when the Appropriate Authority and 'defence' want to discuss what constitutes relevant and agreed material, and those conversations may need to be had before papers can be provided to the LQP and the Panel. Such occasions should be "the exception rather than the norm" and the LQP should be kept informed about what is happening. In such cases, papers should be provided to the LQP as soon as possible. Early knowledge of arguments assists in the provision of effective advice to the Panel. All parties need to be cognisant of the above.

### **8.2 Selection of an LQP**

- 8.2.1 The agreed method of selecting an LQP is the use of a 'cab rank' system. All local policing bodies should, as a matter of good practice, publish their selection policy. It is likely to include the following:

- 8.2.2 On establishing the need to hold a misconduct hearing, the local policing body will engage the nominated force/PCC in their area (where there is one) or access the list via other locally agreed means (e.g. digital portal) and select the first LQP on the list (i.e. the one with the least hearings or the one who last heard a case).
- 8.2.3 The LQP is contacted by the local policing body and told that a hearing is necessary, sharing with the LQP as many details about the case as possible (e.g. dates when it must be heard by, estimate of length of the case etc). This information will already have been gathered by PSDs as it is currently.
- 8.2.4 The LQP considers their availability and accepts or declines the request. The response from the LQP should be received as soon as possible and within 3 working days (i.e. LQPs are given reasonable time to check their availability, but delays to the process must be avoided, hence the 3 working days turn around on confirmation of LQP availability).
- 8.2.5 If the LQP is available, then they are formally appointed in accordance with Regulation 28(5B) or 55(4A).
- 8.2.6 If the LQP is not available, then they remain at the top of the list to be selected for the next hearing. The local policing body then engages the next LQP on the list, until one is appointed.
- 8.2.7 Where a LPB is unable to appoint from their list, they may seek assistance from another LPB or region.
- 8.2.8 In such circumstances, the running order of the cab rank for the LPB's list of LQPs is not affected, and such appointments are outside of the cab rank appointing system.

## 9. Complaints

- 9.1 Whilst rare, there may be occasions when someone wishes to complain about the conduct or performance of an LQP.
- 9.2 In the first instance it is hoped that any complaint can be resolved locally through an informal discussion between parties.
- 9.3 If, however, it is not possible (or appropriate) to resolve the matter informally, complaints should be made in writing and sent to the Chief Executive of the appointing local policing body.
- 9.4 The Chief Executive will acknowledge receipt of the complaint within two working days and will aim to respond within 20 working days.
- 9.5 In the event a complaint is made against an LQP, they will be informed of the fact that a complaint has been made and given an opportunity to provide their account of events. To enable them to do so, they will be provided with the

fullest information about the nature and extent of the complaint, including any statements provided to the Chief Executive in relation to the complaint.

- 9.6 Dependent upon the nature of the complaint, the Chief Executive will seek to resolve the matter locally through informal discussion and providing, wherever possible, options such as additional support and training. Where necessary and appropriate, clear objectives for improvement will be set and reviewed by the Chief Executive.
- 9.7 In more serious cases, or where an informal discussion is not considered appropriate, the Chief Executive will consider reporting the matter to any relevant professional body, such as the Solicitors Regulation Authority (SRA) or Bar Standards Board (BSB).
- 9.8 In circumstances where an LQP fails to engage with training or support, or where a finding is made by a professional body, the local policing body reserves the right to remove the name of the LQP from the list of potential advisers.

## **10. Suspension, Imposition of Conditions, and Termination**

- 10.1 A LQP may be suspended from their appointment by the Chief Executive, Head of Service or equivalent, of the Local Policing Body of the relevant LPB upon receiving a report of misconduct or poor performance from any party.
- 10.2 The Chief Executive after due consideration may determine:
- that the LQP should be subject to conditions for future hearings, where there are performance issues including but not limited to attending further training.
  - terminate the appointment of the LQP. Before a decision to terminate is taken an opportunity shall be given to the LQP to make oral and/or written representations.
  - An appeal against a decision to terminate appointment to the Panel shall be notified to the Chief Executive within 14 days of the date of decision and shall be heard by the local PCC or may be delegated to another LPB who is independent of the matter.

## **11. Reviews**

- 11.1 With every hearing there will be identified learning or best practice which should be shared with the chair and all members of the Panel, and also with the LQP, LPB and PSD.
- 11.2 The ability to assess how an LQP has 'performed' during the process is important to ensure that local policing bodies or regions retain effective LQPs. This can be done in a variety of ways and LQPs should also be provided with

an opportunity to feedback on the service they have received from the local policing body and PSD. Some elements could be:

- The number of hearings that they have advised at during a calendar year against the number of hearings that occurred within that force or region
- Availability - should an LQP continually or habitually not be available then this does have an impact upon the local policing body/region and their ability to advise at hearings in a timely manner
- Attendance at any provided training, continued failure to do so may negate them being able to preside over a hearing
- Chair and Panel contentment with the advice that was provided by the LQP. Any feedback on the advice that was provided by the LQP should be given in writing to the local policing body. If concerns are raised about the advice that was provided by the LQP, the Chief Executive of the local policing body (or their representative) may discuss this with the LQP
- Constructive feedback on the case and identify any best practice or learning from the LQP, local policing body, the officer concerned or his/her representatives, PSD/Legal department

11.3 Such a review would also allow local policing bodies when re-appointing LQPs to have something to measure performance against.

## 12. Appendices & Useful Links

- **Appendix One - Tribunals, Courts and Enforcement Act 2007**
- **Appendix Two - Suggested Basic Job Description**

### Appendix 1 - Tribunals, Courts and Enforcement Act 2007

#### Section 50-52

##### **50: Judicial appointments: “judicial-appointment eligibility condition”**

- (1) Subsection (2) applies for the purposes of any statutory provision that—
- (a) relates to an office or other position, and
  - (b) refers to a person who satisfies the judicial-appointment eligibility condition on an N-year basis (where N is the number stated in the provision).
- (2) A person satisfies that condition on an N-year basis if—
- (a) the person has a relevant qualification, and
  - (b) the total length of the person's qualifying periods is at least N years.
- (3) In subsection (2) “qualifying period”, in relation to a person, means a period during which the person—
- (a) has a relevant qualification, and
  - (b) gains experience in law (see section 52).
- (4) For the purposes of subsections (2) and (3), a person has a relevant qualification if the person—
- (a) is a solicitor or a barrister (but see section 51), or
  - (b) holds a qualification that under section 51(1) is a relevant qualification in relation to the office, or other position, concerned.
- (5) In this section—
- “barrister” means barrister in England and Wales;
  - “solicitor” means solicitor of the Senior Courts of England and Wales;
  - “statutory provision” means—
- (a) a provision of an Act, or
  - (b) a provision of subordinate legislation (within the meaning given by section 21(1) of the Interpretation Act 1978 (c. 30)).
- (6) Schedule 10, which makes amendments—
- for the purpose of substituting references to satisfying the judicial-appointment eligibility condition in place of references to having a qualification mentioned in section 71 of the Courts and Legal Services Act 1990 (c. 41),
  - for the purpose of reducing qualifying periods for eligibility for appointment to certain judicial offices from ten and seven years to seven and five years respectively, and
  - for connected purposes, has effect.
- (7) At any time before the coming into force of section 59(1) of the Constitutional Reform Act 2005 (c. 4) (renaming of Supreme Court), the reference to the Senior Courts in subsection (5) is to be read as a reference to the Supreme Court.

**51: “Relevant qualification” in section 50: further provision**

- (1) The Lord Chancellor may by order provide for a qualification specified in the order to be a relevant qualification for the purposes of section 50(2) and (3) in relation to an office or other position specified in the order.
- (2) [F1awarded by a body which, for the purposes of the Legal Services Act 2007, is an approved regulator in relation to the exercise of a right of audience or the conduct of litigation (within the meaning of that Act).]
- (3) An order under subsection (1) may, in relation to a qualification specified in the order, include provision as to when a person who holds the qualification is, for the purposes of section 50, to be taken first to have held it.
- (4) Where—
  - (a) a qualification is specified under subsection (1),
  - (b) the qualification is one awarded by a body such as is mentioned in subsection [F2(2)], and
  - (c) [F3, for the purposes of the Legal Services Act 2007, the body—
    - (i) is not an approved regulator in relation to the exercise of a right of audience (within the meaning of that Act), and
    - (ii) is not an approved regulator in relation to the conduct of litigation (within the meaning of that Act).]the provision under subsection (1) specifying the qualification ceases to have effect, subject to any provision made under[F4section 46 of the Legal Services Act 2007 (transitional etc. provision in consequence of cancellation of designation as approved regulator)].
- (5) For the purposes of section 50 and this section, a person shall be taken first to become a solicitor when the person's name is entered on the roll kept under section 6 of the Solicitors Act 1974 (c. 47) (Law Society to keep list of all solicitors) for the first time after the person's admission as a solicitor.
- (6) For the purposes of section 50 and this section, a person shall be taken first to become a barrister—
  - (a) when the person completes pupillage in connection with becoming a barrister, or
  - (b) in the case of a person not required to undertake pupillage in connection with becoming a barrister, when the person is called to the Bar of England and Wales.
- (7) For the purposes of section 50—
  - (a) a barrister,
  - (b) a solicitor, or
  - (c) a person who holds a qualification specified under subsection (1), shall be taken not to have a relevant qualification at times when, as a result of disciplinary proceedings, he is prevented from practising as a barrister or (as the case may be) as a solicitor or as a holder of the specified qualification.

- (8) The Lord Chancellor may by order make provision supplementing or amending subsections (5) to (7).
- (9) Before making an order under subsection (1) or (8), the Lord Chancellor must consult—
- (a) the Lord Chief Justice of England and Wales, and
  - (b) the Judicial Appointments Commission.
- (10) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005 (c. 4)) to exercise his function under subsection (9)(a).
- (11) In this section—
- “barrister” means barrister in England and Wales;
  - “solicitor” means solicitor of the Senior Courts of England and Wales.
- (12) Power to make an order under this section is exercisable by statutory instrument.
- (13) An order under this section may make different provision for different purposes.
- (14) No order may be made under this section unless a draft of the statutory instrument containing it (whether alone or with other provision) has been laid before, and approved by a resolution of, each House of Parliament.
- (15) At any time before the coming into force of section 59(1) of the Constitutional Reform Act 2005 (renaming of Supreme Court), the reference to the Senior Courts in subsection (11) is to be read as a reference to the Supreme Court.

## **52: Meaning of “gain experience in law” in section 50**

- (1) This section applies for the purposes of section 50.
- (2) A person gains experience in law during a period if the period is one during which the person is engaged in law-related activities.
- (3) For the purposes of subsection (2), a person's engagement in law-related activities during a period is to be disregarded if the engagement is negligible in terms of the amount of time engaged.
- (4) For the purposes of this section, each of the following is a “law-related activity”—
- (a) the carrying-out of judicial functions of any court or tribunal;
  - (b) acting as an arbitrator;
  - (c) practice or employment as a lawyer;
  - (d) advising (whether or not in the course of practice or employment as a lawyer) on the application of the law;
  - (e) assisting (whether or not in the course of such practice) persons involved in proceedings for the resolution of issues arising under the law;
  - (f) acting (whether or not in the course of such practice) as mediator in connection with attempts to resolve issues that are, or if not resolved could be, the subject of proceedings;

- (g) drafting (whether or not in the course of such practice) documents intended to affect persons' rights or obligations;
- (h) teaching or researching law;
- (i) any activity that, in the relevant decision-maker's opinion, is of a broadly similar nature to an activity within any of paragraphs (a) to (h).

(5) For the purposes of this section, an activity mentioned in subsection (4) is a “law-related activity” whether it—

- (a) is done on a full-time or part-time basis;
- (b) is or is not done for remuneration;
- (c) is done in the United Kingdom or elsewhere.

(6) In subsection (4)(i) “the relevant decision-maker”, in relation to determining whether a person satisfies the judicial-appointment eligibility condition on an N-year basis in a particular case, means—

- (a) where the condition applies in respect of appointment by Her Majesty to an office or other position, the person whose function it is to recommend the exercise of Her Majesty's function of making appointments to that office or position;
- (b) where the condition applies in respect of appointment, by any person other than Her Majesty, to an office or other position, that person.

(7) In subsection (6) “appointment”, in relation to an office or position, includes any form of selection for that office or position (whether called appointment or selection, or not).

Links: [Statutory Guidance to Police Misconduct Regulations 2020](#)

## Appendix Two- Job Description

### JOB TITLE: Legally Qualified Person (LQP) for Police Misconduct Hearings

#### Main Purpose of the role:

- To support the chair of the PMP (including Accelerated Hearings, where the officer concerned is a senior officer) to regulate the procedure in compliance with the regulations and to conduct proceedings efficiently and effectively in a manner compatible with the interests of natural justice.
- To provide legal and procedural advice to the PMP (including chairs of Accelerated Hearings, where the officer concerned is a senior officer) to assist them in coming to fair and evidence-based decisions about a particular officer's conduct and appropriate outcomes arising from those decisions.
- To advise at pre-hearings, including on pre-hearing decisions, including whether witnesses are permitted to be called to give evidence at the hearing and whether to require notice of the hearing.

#### Main responsibilities:

##### Preparing for a hearing

- Reading and assimilating misconduct papers before any hearing commences, including on occasions studying complex documentary evidence.
- Advising on pre-hearing decisions including whether witnesses are permitted to be called to give evidence at the hearing and whether to require notice of the hearing.

### During the hearing

- To attend and participate effectively as an LQP in misconduct hearings or accelerated hearings as required.
- To carefully consider all the evidence before the panel and support the PMP on points of law to enable conclusions to be drawn from that evidence.
- To maintain the highest standards of professional conduct and ethics.
- To support the chair as required in the completion of the final report.

### Report writing

- Where delegated by the chair, provide fully reasoned reports that accurately record the findings and decisions made by the PMP on the outcome of the misconduct hearing.

### Person Specification:

The Police & Crime Commissioner is looking for a people who can evidence that they have the following competencies:

	<b>Requirements to be evidenced</b>	<b>Essential or Desirable</b>
1	Candidates must satisfy the judicial-appointment eligibility condition on a 5-year basis as set out in Section 50 of the Tribunals, Courts and Enforcement Act 2007.	Essential
2	<b>Intellectual capacity:</b> <ul style="list-style-type: none"> <li>• Quickly absorbs and analyses complex information with ease.</li> <li>• Knowledge of the police disciplinary legislative framework, case-law and underlying principles, or the ability to acquire this knowledge.</li> </ul>	Essential
3	<b>An ability to understand and deal fairly:</b> <ul style="list-style-type: none"> <li>• Shows awareness of equality and diversity issues that may arise in policing.</li> <li>• Committed to public interest, impartiality, and fair treatment.</li> <li>• Listens with patience and courtesy.</li> </ul>	Essential
4	<b>Authority and communication:</b> <ul style="list-style-type: none"> <li>• Inspires respect and confidence.</li> <li>• Questions effectively.</li> <li>• Engages constructively in debate and challenges others appropriately.</li> <li>• Excellent presentation skills.</li> </ul>	Essential
5	<b>Efficiency:</b> <ul style="list-style-type: none"> <li>• Works at speed, including when under pressure.</li> </ul>	Essential

	<ul style="list-style-type: none"> <li>• Manages time effectively and produces clear reasoned advice expeditiously.</li> <li>• Works constructively with others.</li> <li>• Makes effective use of technology, including computers, video- and telephone-conferencing.</li> </ul>	
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**Applicants will be assessed against the following at interview:**

- Experience of evaluating evidence, or information and providing legal, objective, unbiased, thoughtful advice.
- Experience of report writing, writing deliberations or case notes.
- Excellent communication skills. Explains clearly and succinctly to all those involved.
- Excellent drafting skills, with the ability to produce clear, accurate, well-structured determinations.
- Preferably able to demonstrate previous committee or judicial work, or service on a Board or Council.
- Integrity and independence of mind.
- Commitment to equality, diversity and inclusion.
- Sound judgement, decisiveness and objectivity.
- Learns and develops professionally.
- Excellent interpersonal skills involving others.

**Eligibility:**

1. Personnel under the direction and control of any Constabulary/Police Force or Office of the Police & Crime Commissioner (OPCC) in England and Wales should not apply. Qualified lawyers employed by any Constabulary, Police Force or OPCC in England and Wales will not be eligible to apply.
2. Applicants must be a British citizen, an EC/EEA national, a Commonwealth citizen or a foreign national with no restrictions on their stay in the United Kingdom (UK). Applicants will be required to provide proof at interview that they have no restrictions on their stay in the UK.
3. Misconduct panel members and legal advisors will both be subject to a statutory duty on conflicts of interest. This will require those individuals not to sit, or continue to sit, where there are circumstances which give rise, or could be reasonably be considered to give rise, to a conflict of interest.
4. An equivalent duty will also exist to prevent relevant bodies appointing individuals where such circumstances exist.
5. We may also consider it to be inappropriate if there is perceived conflict of interest through relationships (e.g. family or close friends) with a Police and Crime Commissioner or officer of any of the police and crime commissioners' offices.
6. There may be others who it would be inappropriate to appoint and in reaching a decision on this matter a key consideration will be whether such an appointment would be likely to result in any real or perceived conflict of interest.
7. Willing to adhere to the 7 principles of public life - Willing to undertake the role with selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
8. There is no upper or lower age limit for candidates for this post.

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