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## Legally Qualified Chairs to serve on Police Misconduct Hearing Panels Role Profile

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### Role Profile

#### Introduction

Following a public consultation led by the 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 have been subsequently strengthened in the 2020 regulations.

#### General Background

The Police Misconduct Hearing Panel includes a chair selected from a list of persons appointed by the local policing body to conduct misconduct hearings for special constables and police officers. LQCs can chair Senior Officer hearings for proceedings under the 2020 regulations.

#### Nature of Cases

The Police Misconduct Hearing Panel is likely to be convened to hear allegations of serious cases of misconduct by police officers. The maximum 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 expected of police officers, such as neglect of duty. Misconduct Hearings could also be convened to consider the final stages of action under performance regulations, where police officers can be dismissed for unsatisfactory performance or attendance.

The Misconduct Hearing Panels will hear cases governed by the Police (Conduct) Regulations 2020. For the purposes of this Role Profile, all references will be to the 2020 regulations. (It should be noted that cases where investigations commenced 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). Should this be the case an LQC will be advised of the relevant regulations to be applied.)

## **Composition of Misconduct Hearing Panels**

The Misconduct Hearing Panels consists of three persons: The Legally Qualified Chair, an Independent Member and a police officer of the rank of Superintendent or above (providing that the officer is at least one rank above the person subject to the misconduct hearing), appointed by the appropriate authority. For senior officers this panel member should be the HMICFRS or an inspector of constabulary nominated by HMICFRS.

## **Role of Chair**

When hearing cases under Police (Conduct) Regulations 2020. the Chair will be expected to have read the papers in advance, and will be required to provide full reasons in writing for the Misconduct Hearing Panels decision before the end of 5 working days, after the day of the conclusions of the proceedings. It is a very paper heavy process and so a commitment to writing reports will be essential.

Misconduct Hearing Panel Chairs are required to travel throughout the counties of Devon, Cornwall and Dorset and may, on occasion, be requested to chair hearings in other police forces

## **Main Activities**

The main activities of the Chair of the Misconduct Hearing Panels are as follows:

### **Reviewing papers** (for cases dealt with under Police (Conduct) Regulations 2020.

- Reading and assimilating misconduct papers.
- **Preparing for a hearing**  
Reading and assimilating misconduct papers before any hearing commences, including on occasions studying complex documentary evidence;
- Providing fully documented reasons for any pre-hearing decisions;
- Making pre-hearing decisions on whether witnesses are permitted to be called to give evidence at the hearing and whether to require notice of the hearing as well as any other legal issues raised before the hearing including whether all or part of the hearing should not be in public;

### **Conduct of Hearings**

- To ensure that parties who are not always represented are able to present their case and have it considered fully and fairly;
- To ensure that hearings are conducted efficiently and effectively in a manner compatible with the interests of natural justice;
- A Misconduct Hearing shall be held in public, subject to the Chair determining otherwise in accordance with the Regulations;
- To regulate the procedure in compliance with the regulations.

### **Determination of Misconduct Hearing**

- In conjunction with the other Misconduct Hearing Panel members, further to the hearing, deciding outcomes to decide whether the conduct of the officer concerned amounts to misconduct, gross misconduct or neither, and impose any disciplinary sanction as appropriate, or in the case of a finding of no misconduct take no further action.

### **Report writing**

- Fully reasoned reports should be produced to provide the officer and the appropriate authority, in writing, the outcome of the Misconduct Hearing. This will be done as soon as practicable and, in any case, before the end of 5 working days beginning with the first working day after the conclusion of the misconduct proceedings.
- Following a hearing, the Chair will need to ensure that the other panel members agree that the report accurately records the findings and decisions made by the Misconduct Hearing Panel.

### **Time Commitment**

- Misconduct cases are triggered by the officer receiving notice of misconduct proceedings (regulation 21). Although cases are unpredictable in nature, it is estimated a Chair should expect to deal with 3 - 4 cases per annum (but this is not guaranteed). In exceptional circumstances cases may last a considerable length of time. There is an expectation that Chairs will make themselves available for the specified number of hearings.

### **Training**

- Candidates must attend training as required.

## **PERSON SPECIFICATION**

Candidates must be able to demonstrate the competencies required for the role of Chair.

### **Essential criteria**

- Experience of chairing meetings and ability to exercise control over proceedings;
- Experience of evaluating evidence, or information and making objective, unbiased, thoughtful decisions;
- Experience of report writing, writing deliberations or case notes;
- Excellent communication skills.

### **Desirable criteria**

- Able to demonstrate previous committee or judicial work or service on a Board or Council.

Applicants will be assessed against the following qualities and abilities:

### **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

### **Personal Qualities**

- Integrity and independence of mind
- Commitment to equality, diversity and inclusion
- Sound judgement
- Decisiveness
- Objectivity
- Learns and develops professionally

- Maintains up to date knowledge of issues relevant to the role

#### **An ability to understand and deal fairly**

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

#### **Authority and Communication Skills**

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

#### **Efficiency**

- Works at speed, including when under pressure
- Manages time effectively and produces clear reasoned decisions expeditiously
- Works constructively with others
- Makes effective use of technology, including computers, video- and telephone-conferencing

#### **Effective Chairing**

- Maintains firm and effective control of hearings
- Explains the procedure and any decisions reached clearly and succinctly to all those involved
- Maintains authority when challenged
- Excellent interpersonal skills involving all members of the Committee in a facilitative, enabling manner
- Excellent drafting skills, with the ability to produce clear, accurate, well-structured determinations

#### **Qualifications and training required**

Candidates must satisfy the judicial-appointment eligibility condition on a 5-year basis. See Appendix 1.

#### **Principles of Standards in Public Life**

Candidates will be expected to support the Principles of Standards in Public Life. As such, the seven principles of conduct underpin the work of the OPCCs and are used as the basis for working practices.

The 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.

#### **Fees**

Full day i.e. sittings of more than 4 hours (excluding meal breaks) **£511.56**

Half day i.e. sittings of 4 hours or less (excluding meal breaks) **£255.78**

The "fees" rates may be claimed only for sitting on a Misconduct Panel.

#### Preparation and report writing fees:

A fee may be claimed at the rate of **£73.50** for each hour necessarily spent in preparatory work or report writing. This fee may, however, only be claimed where it is necessary for the work to be undertaken on a day other than the day on which the hearing takes place, (except that a fee may be claimed even in these circumstances if the hearing fee is paid at the half-day rate).

The maximum preparation and report writing fee that can be claimed is **£1050** for each Misconduct Hearing.

#### **Expenses**

Travel and expenses according to the policy of the relevant police force or constabulary.

**The appointment will be subject to satisfactory references and vetting checks.**

## **STANDARD ELIGIBILITY CLAUSES FOR LEGALLY QUALIFIED CHAIR'S**

### **Age**

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

### **Qualification**

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.

### **Eligibility**

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.

### **Disability**

If appointed, reasonable adjustments will also be considered to ensure that a disabled appointee can take up and perform in office.

### **Health**

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

## 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) [F1 awarded 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).]

(iii) the provision under subsection (1) specifying the qualification ceases to have effect, subject to any provision made under [F4 section 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).