

Request for a Police, Fire & Crime Commissioner Decision

SECTION 1

Please identify who is requesting the decision:			
OPFCC Decision?	Y	Decision Number:	018/2025
CCFRA Decision?	N	Decision Number:	
Constabulary Decision?	N	Decision Number:	

(Please indicate whether this is a PART 1 or PART 2 decision (For Part 2 decisions, only the Section 1 is to be published))

PART 1 Decision:		PART 2 Decision:	Yes
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DECISION TITLE: Misconduct Panel Members Insurance Indemnity

Executive Summary: (no more than 100 words)

The Police (Conduct) (Amendment) Regulations 2015 and 2024 requires the Police, Fire and Crime Commissioner (PFCC) to hold a register of lawyers who satisfy certain judicial appointment eligibility conditions, these lawyers are known as Legally Qualified Persons (LQP). The LQP will provide support and advice to the chair of Police Misconduct hearings in cases of allegations of gross misconduct by police officers. Independent Panel Members (IPMs) sit on panels to ensure fairness and transparency.

In the absence of Home Office guidance, the Association of Police and Crime Commissioners (APCC) are drafting guidance to be issues to PCCs to address the issues of indemnity insurance to cover the LQPs and IPMs when sitting at Police Misconduct Hearings.

Recommendation:

That, for the Police Misconduct Hearing, case reference CM/60/24, the Police, Fire and

Crime Commissioner for Cumbria shall, provide indemnity insurance for the Legally Qualified Person and Independent Panel Member appointed to this case. The extent of the provision is detailed within the report.

Police, Fire & Crime Commissioner

I confirm that I have considered whether or not I have any personal or prejudicial in this matter and take the proposed decision in compliance with the Code of Conduct for Cumbria Police, Fire & Crime Commissioner. Any such interests are recorded below.

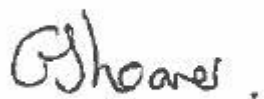
I hereby:

approve

the recommendations as set out above.

Delete as appropriate:

Chief Executive



Signature:

Date: 08.01.2026

For OPFCC Office Use only:

Date of publication of decision:

15/01/2026

Each section below must be completed prior to submission to the Commissioner for decision.

ORIGINATING OFFICER DECLARATION:

I confirm that this report has been considered by the Chief Officer Group / OPFCC Executive Team / CCFRA Executive Team and that relevant financial, legal and equalities advice has been taken into account in the preparation of this report.



Signed:

Date: 08.01.2026

CHIEF OFFICER APPROVAL (where applicable)

Chief Constable / Chief Fire Officer (delete as appropriate)

I have been consulted about the proposal and confirm that I am satisfied that this is an appropriate request to be submitted to the Police, Fire and Crime Commissioner.

Signature:

Date:

OPFCC CHIEF OFFICER APPROVAL

Chief Executive (Monitoring Officer) / Chief Finance Officer (Deputy Chief Executive) (delete as appropriate)

I have been consulted about the proposal and confirm that financial, legal and equalities advice has been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the Police, Fire and Crime Commissioner / Chief Executive (delete as appropriate).

Signature:

Date:

Media Strategy

The decision taken by the Police, Fire & Crime Commissioner may require a press announcement or media strategy.

Will a press release be required following the decision being considered?

~~YES~~ / NO

If yes, has a media strategy been formulated?

~~YES~~ / NO

Is the media strategy attached?

~~YES~~ / NO

What is the proposed date of the press release:

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 PFCC website within 5 working days of approval. Any facts/advice/recommendations that should not be made automatically available on request should not be included in Part 1 but instead in the Part 2 section of the form. Deferment is only applicable where release before that date would not compromise the implementation of the decision being approved.

Is the publication of this form to be deferred?	YES / NO
Until what date (if known):	
If yes, for what reason:	
If this is a Part 2 Decision , has the Part 2 element of this form been completed	YES / NO

SECTION 2 BELOW IS ONLY TO BE PUBLISHED IF THE DECISION IS PART 1

SECTION 2

PLEASE COMPLETE ALL SECTIONS BELOW WITH FACTS AND ADVICE FOR THE PFCC

1. Introduction & Background

- 1.1 The Police (Conduct) (Amendment) Regulations 2015 and 2024 requires Police and Crime Commissioners to hold a register of lawyers who satisfy certain judicial appointment eligibility conditions, these lawyers are known as Legally Qualified Persons (LQP). The LQP will chair provide support and advice to the chair of police misconduct hearings in cases of allegations of gross misconduct by police officers. Independent Panel Members (IPMs) sit on panels to ensure fairness and transparency.
- 1.2 In the absence of Home Office guidance, the Association of Police and Crime Commissioners (APCC) are drafting guidance to be issues to PCCs to address the issues of indemnity insurance to cover the LQPs and IPMs when sitting at Police Misconduct Hearings.

2. Issues for Consideration

- 2.1 There have been increasing discussions between Police and Crime Commissioners and LQPs about whether LQPs should be provided with an indemnity for actions they take in respect of Police Misconduct Panel Hearings.
- 2.2 The PFCC has a discretionary power to provide financial assistance for legal proceedings to officers facing personal legal proceedings providing they were acting in accordance with their duties, in good faith and exercising reasonable judgement. Guidance in other areas suggests that board members of public bodies should be provided with appropriate indemnities.
- 2.3 In the absence of Home Office guidance, the Association of Police and Crime Commissioners are in the process of drafting guidance to be issued to PCCs. The guidance document is intended to address a number of issues that are of concern to PCCs and LQPs across England and Wales. The document will provide appropriate guidance to ensure PCCs in England and Wales manage police misconduct panels in a similar manner.
- 2.4 The requirement for professional indemnity insurance is normally a matter for individual solicitors or barristers to ensure it is in place if they are practicing and giving legal advice. Barristers will normally hold their own policy and solicitors generally will come under the cover of the company they work for (when undertaking work for the company).
- 2.5 The purpose of this professional indemnity insurance is to provide insurance against any legal claims against a practitioner for legal advice given or actions in the course

of their profession. For example, this could be a claim that they have been negligent in the advice given leading to a loss or for a personal claim in discrimination against a particular individual who they act for or dealt with in the course of their practice.

- 2.6 Judicial appointments and posts, as a general rule carry, immunity and are exempt from action. The normal route to challenge decisions would be to use appeal options. As a general rule, any challenge to the outcome in a police misconduct hearing would be by way of appeal to a Police Appeal Tribunal (PAT) or by way of a judicial review of a PAT decision. This would not be a challenge against the chair personally or any other individual member that would require or trigger any claim against them or any professional indemnity insurance policy they hold. PAT costs rules and provisions are provided for under the Police Act 1996, the Police Appeal Tribunals Rules 2020 and also Home Office guidance.
- 2.7 Guidance from the Home Office on police misconduct proceedings, reflects the new LQP role.

3. Decision/Recommendation

- 3.1 It is recommended that in the absence of and until specific Home Office guidance is provided that the PFCC seeks to ensure appropriate indemnity is provided to ensure panel members can operate without fear of unfair reprisal and to encourage a consistent and fair approach to panel members.
- 3.2 Indemnity should be provided as long as the LQP/IPM has acted in good faith and should fully indemnify LQPs/IPMs for all legal claims and liabilities in respect of any claim howsoever arising from performance of the service of Police Misconduct Panel Members including any damages, reasonable costs or other liability.
- 3.3 The terms of the indemnity provision should be included in the terms of appointment for LQPs and IPMs.
- 3.4 Any indemnity provision agreed by the PFCC would be replaced or superseded by any Home Office guidance or statutory provisions issued or created regarding personal liabilities or indemnities for panel members of police misconduct panel hearings.
- 3.5 The terms of indemnity provision would also be applied to Independent Panel members.
- 3.6 In 2022 an amended indemnity wording has been agreed between the National Association of Legally Qualified Chairs and the APCC. The revised indemnity wording is detailed below and will be included with the letters sent to LQP's and IPM's when appointed to a misconduct case.

4. Conclusion

The report recommends that in the absence of and until specific Home Office guidance is issued the PFCC seeks to ensure appropriate indemnity is provided to ensure LQPs and

IPMs can operate without fear of unfair reprisal and to encourage a consistent and fair approach to panel members.

Indemnity should be provided as follows:

Following your appointment as the Legally Qualified Person/Independent Panel Member in respect of the case of CM/60/24, I (in my role as Police, Fire and Crime Commissioner or equivalent) agree to indemnify you as the Legally Qualified Person ("LQP")/Independent Panel Member ("IPM") in respect of any liabilities arising (including reasonable costs as agreed with you in connection with responding to or engaging with any legal proceedings or matters arising from the discharge of your functions as an LQP/IPM) for anything done or omitted to be done by you in the discharge of those 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 you being held to have any liability for anything done or omitted to be done by another member of the Panel of which you are part, I agree to indemnify you in full in respect of any such liability

Upon notification of any claim the appointed LQP and IPM must:-

- notify the PFCC of any potential claim within 48 hours of it coming to his/her attention; and
- instructing their legal representative to provide a cost estimate and updates of costs incurred monthly or when sums of £5,000 are incurred (whoever is the more frequent)

3. Implications

- 3.1. Financial - The likelihood of any personal action being taken against a chair and or other panel member is thought to be remote. The OPFCC Chief Executive and Chief Finance Officer will monitor the costs of indemnity insurance and seek to ensure insurance cover for police misconduct panel members.
- 3.2. Legal
- 3.3. Risk - Following a judgement made at the Supreme Court on 25 October 2017, P v Commissioner of Police of the Metropolis and that the normal route for challenge to any outcome of a case is via appeal to a Police Appeal Tribunal (PAT) or a judicial review, this means that the likelihood and or risk of any personal action against a chair and or other panel member is likely to be extremely remote. However, there remains a risk that a civil action could be taken against a specific panel member.

Although there is a requirement for LQPs to be legally qualified the only statutory requirement is that LQPs must satisfy the judicial appointment eligibility requirements (on a 5-year basis) as set out in section 50 of the Tribunals, Courts and Enforcement Act 2007. This does not mean an appointee will be practicing and does not mean that they will necessarily hold professional indemnity insurance. Further even those practitioners with professional indemnity insurance will not necessarily be covered for the role of LQP which may require extensions to current

policies with additional premiums payable or complete outside the scope (eg if a solicitor is appointed in an individual capacity they would not necessarily be covered by a firm's professional indemnity policy). This therefore gives rise to a potential risk that LQPs could be exposed to a risk of litigation without professional indemnity insurance covering that risk. Therefore, a number of LQPs are seeking indemnity from PFCCs before undertaking work as LQPs. Implications of LQPs taking such steps are potentially that there cannot be any misconduct hearings and or they will be so delayed that that will amount to an abuse of process so that officers are not held to account for their actions and confidence in the police service is undermined.

Advice has been provided to the OPFCC from its Legal Advisor with regards to the risks related to this misconduct panel hearing. Although it is recognised that the LQP will likely be required to adjudicate on some preliminary issues, the overall risk is small.

3.4. HR / Equality - There are no equality and diversity impacts identified.

SECTION 3 BELOW MUST BE COMPLETED FOR ALL PART 2 DECISIONS AND WILL NOT BE PUBLISHED.

SECTION 3

PART 2 DECISIONS ONLY – CONFIDENTIAL DECISION, FACTS AND ADVICE

Information may have to be disclosed in the event of a request under the Freedom of Information Act 2000. In the event of a request for confidential facts and advice, please consult your Information Advisor for advice.

Please indicate under which section the decision is to be taken in Part 2:

Not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended)

Please provide a full explanation as to why the exemption should apply
(e.g. – legal advice; commercially confidential information)

The proposed indemnity is proposed for case CM/60/24 only. This matter is being considered on a national basis and once this has been agreed the provisions of indemnity insurance may alter. If insurance cover is to be sought on a national or regional basis information relating to current insurance cover may prejudice or influence prospective cover for the future.

This information is not for publication until the stated date because:

N/A

Information will cease to be confidential or when the confidentiality should be reviewed:
(insert date and reasons)

N/A

Name:

Date:

Part 2 Decision:

Confirmation by the Office of the Police, Fire & Crime Commissioner that they accept the reasons for the decision to be made in Part 2 for the reasons stated.

Name:**Date:**