


# Legally Qualified Chairs Handbook

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This Handbook is provided in order to support the work of police and crime commissioners and legally qualified chairs for police misconduct hearings. The Handbook provides advice and guidance. It is advisory only, and in some local policing body areas there may be local differences in the way LQC arrangements are managed. For advice on this LQCs should refer to their local policing body.

## Background


- 1.1 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.
- 1.2 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.
- 1.3 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>1</sup> expected of police officers such as neglect of duty.
- 1.4 The Misconduct Hearing Panels will hear cases governed by the Police (Conduct) Regulations 2020. For the purposes of this Handbook, 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.)
- 1.5 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.
- 1.6 In line with paragraph 4.4.1 of the College of Policing's Authorised Professional Practice on Vetting (May, 2019), LQCs are not subject to police vetting.

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<sup>1</sup> An understanding of the Code of Ethics will support an understanding of the standards of professional behaviour

## 2.0 Roles and Responsibilities

- 2.1 Home Office Circular 00062015 *Changes to Home Office Guidance on police conduct, unsatisfactory performance & attendance management procedures* created the role of the LQC.
- 2.2 The policy intent was to increase transparency and independence into police misconduct proceedings. LQCs must also ensure efficient and effective bringing of proceedings and that they are conducted in a timely, fair and transparent matter
- 2.3 The primary legislation LQCs will need to be familiar with are The Police Act 1996, The Police Reform Act 2002 and the Policing and Crime Act 2017.
- 2.4 They will also need to be very familiar with The Police (Conduct) Regulations 2020 (please note 4 of this handbook and the implications of transition from the amended 2012 regulations.)
- 2.5 Part 4 of the 2020 Regulations deals with Misconduct Proceedings and describes the role and responsibilities of the Chair of a misconduct hearing (i.e. an LQC).
- 2.6 A significant difference between the 2020 regulations and those preceding it is the enhanced role and responsibilities of the LQC. The LQC in the 2020 regulations is responsible for managing the hearing from the outset.
- 2.7 The default position is that the hearing will be held in public, though the LQC does have discretion to hold a hearing in private, exclude specific individuals or place reporting restrictions on a hearing in certain circumstances.
- 2.8 The LQC may, if they deem it appropriate, hold a Misconduct Pre-Hearing to consider potential witnesses, any documentation supplied, consider any procedural or preliminary legal arguments or any potential disclosure issues.
- 2.9 The LQC is responsible for allocating the time required for the hearing and ensuring that public notification of the hearing is made.
- 2.10 Having heard all the evidence, it is the responsibility of the LQC, along with the other panel members, to decide if the case is proven and if so what sanction will be given. The College of Policing have guidance on sanctions that is available to LQCs ([College of Policing Guidance 2017](#))
- 2.11 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)
- 2.12 If Gross Misconduct is found outcomes include:

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- A final written warning (subject to limitations)
  - Reduction in rank (subject to limitations)
  - Dismissal without notice
- 2.13 Following the outcome of a hearing, the LQC has five days to produce a written report for the Appropriate Authority (the Chief Constable in all cases except where a Chief Constable is the subject of the hearing) 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
- 2.14 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.
- 2.15 Following the notification of outcomes, an officer may have the right to appeal through the Police Appeals Tribunal process.

### **3.0 Role Description**

LQCs will have been appointed after making successful applications in accordance with criteria that have been agreed by the local policing body. For convenience, those criteria set out below.

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

#### **3.1 Essential criteria**

- 3.1.1 Satisfaction of the judicial appointment eligibility condition on a 5 year basis
- 3.1.2 Experience of chairing meetings and ability to exercise control over proceedings;
- 3.1.3 Experience of evaluating evidence, or information and making objective, unbiased, thoughtful decisions;
- 3.1.4 Experience of report writing, writing deliberations or case notes;
- 3.1.5 Excellent communication skills.

#### **3.2 Desirable Criteria**

- 3.2.1 Able to demonstrate previous committee or judicial work or service on a Board or Council.
- 3.2.2 An understanding and appreciation of the Police Code of Ethics.

#### **3.3 Qualities & Abilities**

##### *3.3.1 Intellectual Capacity*

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

##### *3.3.2 Personal Qualities*

- a) Integrity and independence of mind.
- b) Commitment to equality, diversity and inclusion.
- c) Sound judgement.
- d) Decisiveness.
- e) Objectivity.
- f) Learns and develops professionally.
- g) Maintains up to date knowledge of issues relevant to the role.

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

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

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

- a) Inspires respect and confidence.
- b) Questions effectively.

- c) Engages constructively in debate and challenges others appropriately.
- d) Excellent presentation skills

### 3.3.5 *Efficiency*

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

### 3.3.6 *Effective Chairing*

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

## 3.4 **Qualifications and training required**


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

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

- 3.5.1 Although not holders of public office as such, LQCs will be expected to abide by the Principles of Standards in Public Life (The Nolan Principles). As such, the seven principles of conduct underpin the work of the local policing bodies and are used as the basis for working practices.

- 3.5.2 The principles are:

- a) **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.
- b) **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.
- c) **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.

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- d) **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.
  - e) **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.
  - f) **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.
  - g) **Leadership:** Holders of public office should promote and support these principles by leadership and example.

### 3.6 **Standard eligibility clauses for Legally Qualified Chairs**

- 3.6.1 There is no upper or lower age limit for candidates for this post apart from any statutory retirement age for judicial appointments.
- 3.6.2 Candidates should be able to work across the force areas upon whose LQC lists their names appear on.
- 3.6.3 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)
- 3.6.4 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.
- 3.6.5 Qualified lawyers employed by any Constabulary/Police Force or local policing body in England and Wales will not be eligible to apply.
- 3.6.6 If appointed, reasonable adjustments will also be considered to ensure that a disabled appointee can take up and perform in office.
- 3.6.7 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
- 3.6.8 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



## **4.0 Appointments**

- 4.1 Local policing bodies have a statutory duty to maintain a list of LQCs available to chair Misconduct Hearings.
- 4.2 Most local policing bodies have collectively decided to maintain lists on a regional footprint, with LQCs required to be able to cover any force area within that region.
- 4.3 Individual LQCs are able to sit on the lists for more than one policing region.
- 4.4 Appointments are made for a duration of four years.
- 4.5 LQCs may appear on a list of possible chairs for a maximum of 8 years (i.e. 2 terms), after which they must wait four years before being allowed to re-apply to join that list. This exclusion does not apply to appearing on other local policing body lists providing 8 years has not been served on them. This is to ensure that there is an element of churn within Chairs and to prevent suggestions of over familiarity with forces or lack of independence of Chairs.
- 4.6 Opportunities to join local policing body LQC lists will be advertised on websites as well as through other specialist legal online portals.
- 4.7 As previously mentioned all LQC appointments must be made in line with the judicial-appointment eligibility condition.
- 4.8 Local policing bodies should pay particular attention to ensuring, where possible, that the pool of LQCs available is as diverse as possible to reflect the diversity of communities that the police service serves.



## 5.0 Fees and Expenses

### 5.1 FEES


- 5.1.1 The recommended rate of pay for an LQC is set by the Home Office which caps the rate at the same level as the Chairs of Police Appeal Tribunals. This rate is currently set<sup>2</sup> 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 LQCs are sitting on Misconduct panels and also when conducting 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 a Chair to give up a whole day for a half day's<sup>2</sup> session. Chairs may claim for a full day's<sup>2</sup> 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 £73.50 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 The maximum preparation and report writing fee that can be claimed is £1050 for each misconduct hearing. This may be varied in more complex cases but only upon written agreement of the Chief Executive of the host Police & Crime Commissioner.
- 5.1.6 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.
- 5.1.7 LQCs attending training will be able to claim the current half day rate to cover attendance at training days. This approach recognises the time commitment in attending, but also recognises the value of the training LQCs will receive as part of their continuous professional development. LQCs would also be able to claim travel expenses outlined in section 5.4 of this handbook.

### 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.

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- 5.2.2 Local policing bodies recognise that LQCs may have declined other work in order to chair 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 LQC's name will, with their agreement, be put back at the top of the list of available Chairs.
  - 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, up to £1050 (or otherwise agreed amount), will be paid as well as any time spent in pre-hearing meetings.
  - 5.2.7 Cancellations without good reason by LQCs, especially if made to undertake other paid work, may result in an LQC being removed from a regional list following discussions with the local Chief Executive. (For the avoidance of doubt, cancellation due to an existing professional commitment "overrunning" will be regarded as being with good reason. Similarly, provided sufficient notice has been given by the LQC to the local policing body to allow an alternative LQC to be appointed, where the cancellation is due to the LQC being appointed to chair another police misconduct hearing, this will be regarded as a cancellation 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 2020 Regulations, LQCs are 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 local 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 local Chief Executive will exercise his/her discretion in favour of authorising such payment. In the event that he/she does not, full reasons therefor will be provided to the LQC.

### 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.

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. If a hearing runs to two or more days then Chairs may, if travel to the hearing venue is likely to take more than an hour, claim reimbursement for the cost of overnight accommodation up to a maximum of **£126 per night**<sup>3</sup>. 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 LQCs should arrive at the hearing sufficiently early and refreshed to prepare for the hearing and meeting other panel members. In cases where the LQC has a journey of more than one hour, the OPCC may agree to meet the cost of overnight accommodation the night prior to the first day of the hearing.

5.5.3 Unless the LQC's travel from the hearing venue to his/her home is likely to take more than an hour, an overnight accommodation claim may not be made

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<sup>3</sup> It is accepted that in some areas accommodation will be more costly and a higher rate may be agreed locally with the Chief Executive, prior to expenditure being incurred.

in respect of the final day of the hearing if a long sitting allowance has been claimed. (see 5.1.6)

- 5.5.4 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 LQC 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.

## 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. Chairs 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 Chairs 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 LQC to chair a hearing, each local policing body will inform the LQC 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 LQC. Any queries about the provision of or completion of claim forms should be addressed to the Office of the Police & Crime Commissioner for the force area in which the case is being heard.

## 6.0 **Indemnity**


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

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- 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.
- 6.3 The officer concerned may appeal to a Police Appeals Tribunal against the Panel's decision on finding and/or its finding on outcome. LQCs and other Panel members play no part in any such appeal. However, decisions of the Panel or the LQC may be liable to challenge in the High Court by way of Judicial Review. This avenue is available to the Appropriate Authority (Chief Constable), the officer concerned and others such as a Complainant, an Interested Person or the media. If an application for Judicial Review is made, the Panel and/or the LQC will be named as the Defendant in the proceedings.
- 6.4 Independent legal advice has been sought by a number of PCC offices on this issue. 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. Furthermore, the National Association of Legally Qualified Chairs (NALQC) has advised its members not to accept appointments to chair proceedings without there being in place a sufficient indemnity that recognises that LQCs may be "outvoted" by the other members of the Panel, even though this is never disclosed by virtue of regulations 41(17) and 61(17). In practice, it is unlikely that the indemnity will have to be called upon in Judicial Review proceedings because LQCs/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 APACE, the APCC, PCCs and the NALQC have agreed that the following is an appropriate form of indemnity:

*"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 Chair 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 of which you are part, 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 Legally Qualified Chair 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.

- 6.6 A protocol is being developed by local policing bodies and the NALQC which covers such matters as compliance with the CPR Pre-Action Protocol for Judicial Review, the service of Judicial Review proceedings, the filing of an



Acknowledgment of Service and keeping the LQC informed of the proceedings. A copy of the protocol will be added and will appear at Appendix 2.

- 6.7 The liability of LQCs and and Misconduct Panels in legal proceedings other than Judicial Review proceedings (eg employment tribunals) is currently the subject of ongoing legal proceedings. The PCCs and the NALQC have agreed that the indemnity set out in paragraph 6.5 above will be periodically reviewed whilst the legal proceedings continue and at their final conclusion.

## **7.0 Training & Development**

- 7.1 All LQCs 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 LQCs on the relevant Police Regulations as well as other aspects of the role such a chairing skills, and input of Equality & Diversity etc.
- 7.3 The National Association of Legally Qualified Chairs (NALQC) have developed a bespoke training package that will provide LQCs 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 LQCs by appropriate specialists engaged by the local policing bodies.
- 7.4 PCCs have agreed that they will jointly fund the training provided by the NALQC or other providers to ensure LQCs have the skills required.
- 7.5 ALL LQCs will have to have completed relevant training in order to chair a Misconduct Panel.
- 7.6 Where an LQC sits on lists across multiple police areas it is expected that they only need complete the training once.
- 7.7 Should there be changes in regulations, the Association of Police and Crime Commissioners (APCC) will liaise with the NALQC to arrange suitable training to be developed.
- 7.8 If the NALQC identifies training needs for its members to facilitate an efficient discharge of their responsibilities they will liaise with the APCC to explore the potential to develop training packages to address these needs.
- 7.9 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 LQCs 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.

7.10 Fee and expenses arrangements for attendance at training events are dealt with in Section 5 of this handbook.

## **8.0 Selection of a Chair**

### *8.1 KEY PRINCIPLES*

8.1.1 It is widely agreed that for LQCs to be effective, and to allow for a trusted and equitable misconduct process, they need to be selected on a consistent basis. Regulations stipulate that these powers should include the setting of all hearing dates, allowing them effective oversight of the hearing process. To assist in this process, local policing bodies will remain in close consultation with PSDs given their knowledge of the case and awareness of various parties availability, as well as logistical information such as room availability in the force area, and pass such information to the LQCs.

8.1.2 The 2020 Regulations provide a clear timetable for misconduct proceedings and, consequently, LQCs should be provided with the case papers and other evidence (such as video recordings) in accordance with the timetable provisions. 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 LQC. Such occasions should be "the exception rather than the norm" and the LQC should be kept informed about what is happening. In such cases, papers should be provided to the LQC as soon as possible. Early knowledge of arguments assists in effective planning for the case e.g. the LQC's decision about the length of the hearing required. It is difficult for LQCs to judge some of the finer elements of case management without seeing the full scope of the evidence at an early stage. All parties need to be cognisant of the above.


### *8.2 SELECTION OF A CHAIR*

8.2.1 The agreed method of selecting a chair 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 lead force/PCC in their area (where there is one), or access the list via other means (e.g. digital portal), and select the first Chair on the list (i.e. the one with the least hearings or the one who last heard a case the longest ago).

8.2.3 The LQC is contacted and told that a hearing is necessary, sharing with the LQC 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 LQC considers his or her availability and accepts or declines the request. The response from the LQC should be received as soon as possible and within 3 working days i.e. LQCs are given reasonable time to check their




availability, but delays to the process must be avoided, hence the 3 working day turn around on confirmation of LQC availability.

- 8.2.5 If the LQC is able to Chair the hearing then he/she is formally appointed in accordance with regulation 28. Thereafter, the timetable provisions in the 2020 Regulations, including the service of the Regulation 30 Notice on the officer concerned and the service of the officer concerned's Regulation 31 Response, come into effect.
- 8.2.6 The relevant regulations make provision for the LQC to consult with the relevant parties on matters such as the date for any misconduct pre-hearing and the date(s) of the hearing itself. However, the LQC may need to use their discretion in unilaterally setting dates for these meetings given her or his oversight and the need to prepare all parties for the misconduct hearing itself.
- 8.2.7 If the LQC isn't available to be appointed Chair of the proceedings, then they remain at the top of the list to be selected for another hearing. The local policing body then engages the LQC second on the list, and so the selection continues.

## **9.0 Complaints**

- 9.1 Whilst rare, there may be occasions when someone wishes to complain about the conduct of an LQC.
- 9.2 In the first instance it is hoped that any complaint will be able to be resolved 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 twenty working days.
- 9.5 In the event a complaint is made against an LQC 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 through 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.



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- 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 LQC 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 LQC from the list of potential Chairs.
- 9.9 The procedure for dealing with complaints against LQCs is currently being developed, and once complete will be added at Appendix 3.

## **10.0 Reviews**

- 10.1 With every hearing there will be identified learning or best practice which should be shared by not only the LQC but the IPM, local policing body, the officer concerned or his/her representatives and PSD.
- 10.2 The ability to assess how an LQC has `performed' during the process is important to ensure that local policing bodies or regions retain effective LQC's. This can be done in a variety of ways and we need to also allow them to feedback on the service they have received from the local policing body and PSD involved. Some elements could be:
- The number of hearings that they have presided over during a calendar year against the number of hearings that occurred within that force or region. With LQC's being involved at the outset of case they will be able to set the timetable and therefore availability issues would hopefully be reduced.
  - Availability - should an LQC continually or habitually not be available then this does have an impact upon the local policing body/Region and their ability to have 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.
  - Compliance with the required timeframes, for example:
    - a. Hold the hearing within 100 days
    - b. Pre-hearing decision within 5 working days
    - c. Pre-hearing arranged within 15 working days
    - d. Written determination provided within 5 workings days
  - Constructive feedback on the case and identify any best practice or learning from the LQC, local policing body, the officer concerned or his/her representatives, PSD/Legal department
- 10.3 Such a review would also allow local policing bodies when re-appointing LQC's to have something to measure performance against.

## 11.0 Appendices & Useful Links

### 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),]

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;

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- (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 - Protocol for Dealing with Judicial Reviews (to be added)**

**Appendix Three - Complaints Procedure (to be added)**