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## **SELECTION OF MISCONDUCT PANELS AND POLICE APPEALS TRIBUNALS FOR THE NW REGION**

- 1 The Appointment of Legally Qualified Persons (LQP) and Independent Panel Members (IPM) to Police Misconduct Hearings – The Police (Conduct) (Amendment) Regulations 2024**
- 1.1 Where for the purposes of the Police (Conduct) (Amendment) Regulations 2024 (the 2024 Regulations) a non-senior officer case is referred to a misconduct hearing, that hearing must be conducted by a panel of three persons comprising of -
  - a Chair, appointed by the Appropriate Authority or equivalent staff member, who must be a senior officer of the police force concerned.
  - a person appointed by the Local Policing Body, who has qualifications or experience relevant for the purpose of disciplinary proceedings; and
  - a person appointed by the Local Policing Body, who need not have such qualifications or experience, selected on a fair and transparent basis from the list of candidates maintained by the Local Policing Body.
- 1.2 In addition to the appointment of the three persons detailed above, a person is to be appointed by the Local Policing Body as an adviser to the Chair and panel of persons conducting a misconduct hearing, selected on a fair and transparent basis from a list of Legally Qualified Persons maintained by a Local Policing Body.
- 1.3 The Legally Qualified Person appointed must provide advice to the panel of persons conducting or to the person chairing a misconduct hearing upon request by the Chair in respect of any legal or procedural issues relating to the misconduct proceedings. The panel of persons conducting or the person chairing a misconduct hearing must have regard to any advice given by the Legally Qualified Person.
- 1.4 The five local policing bodies, i.e. Police and Crime Commissioners or Mayor for each of the five police areas comprising the North West Region, namely Greater Manchester, Merseyside, Lancashire, Cheshire, and Cumbria, have appointed a list of Legally Qualified Persons, and persons to a list of Independent Panel Members for the purposes of misconduct hearings held within the North West Region.
- 1.5 Selections of Legally Qualified Persons and Independent Panel Members to particular misconduct hearings are required to be made on a fair and transparent basis to their role and to each misconduct case.
- 1.6 Statutory Guidance on Professional Standards, Performance and Integrity in policing issued by the Home Office states at paragraph 11.36 et seq:

*11.36 Appointment should be on a fair and transparent basis by the local policing body following a request from the appropriate authority. Fair and transparent will generally mean that a rota system is established (sometimes referred to as 'first cab off the rank system') so the next available person from the pool is chosen for the hearing. It will be good practice for the local policing body to publish how their rota system operates."*

- 1.7 The Office of the Police and Crime Commissioner for Merseyside, holds the lists of Legally Qualified Persons and Independent Panel Members. Merseyside have set up and provided (via Microsoft Teams) permissions for relevant staff in the other four Local Policing Body's offices to access both lists. This allows each office to assign a Legally Qualified Person and Independent Panel Members respectively. The list has been established and uses a 'cab rank' system, so that all the Legally Qualified Persons and Independent Panel Members are selected fairly.
- 1.8 At the point an Appropriate Authority (acting through their relevant Professional Standards Department [PSD]), determines to refer a case to a misconduct hearing, they will approach their relevant Local Policing Body (ie the Police and Crime Commissioner or Mayor for the police area from where the misconduct hearing originates) for a Legally Qualified Person to be appointed. The PSD will provide as much information as possible about the case covering issues such as number and name of officers concerned, estimated length of hearing, and general subject matter of the case (if asked).
- 1.9 The Legally Qualified Person and Independent Panel Members will be given a reasonable period to check their availability and will be expected to advise within 48 hours whether they are available for appointment to the case. The relevant Police and Crime Commissioner or Mayor's office will then appoint from the affirmative responses in a timely manner using the cab rank system.
- 1.10 The officer who is subject to the misconduct hearing will be informed of both the Legally Qualified Person and Independent Panel Members appointed in respect of their misconduct hearing and to whom they can object in writing before the end of 3 working days beginning with the first working day after the officer is given notice of the person's name, setting out their grounds for objection.
- 1.11 Where the officer subject to the misconduct proceedings is a senior officer, the above process should be applied subject to appropriate modification for the purposes of the 2024 Regulations.

## **2 The Appointment of a Police Appeals Tribunal – Schedule 6 of the Police Act 1996**

- 2.1 An officer may appeal the decision of a misconduct hearing held under the Police (Conduct) Regulations 2020 and the Police (Performance) Regulations 2020.
- 2.2 Appeals related to decisions which have been made under the previous versions of these Regulations will be dealt with under the Police Appeals Tribunals Rules 2012.
- 2.3 The Police Appeals Tribunal Rules 2020 and the Home Office – Statutory Guidance on Professional Standards, Performance and Integrity in Policing at Chapter 26 set out clearly the circumstances in which an appeal may be brought and how the appeals should be progressed. A Police and Crime Commissioner or Mayor has important procedural and administrative functions to discharge to enable the effective and efficient disposal of appeals. In the event of an appeal, the Police and Crime Commissioner or Mayor must ensure that they adhere closely to the legislation and guidance.
- 2.4 The composition of the Police Appeals Tribunals is set out in Schedule 6 to the Police Act 1996 (as amended).
- 2.5 Where the appellant is not a senior officer, the Tribunal shall consist of:
- a Legally Qualified Chair taken from the list maintained by the Home Office;
  - a serving senior police officer; and
  - a lay person, who is defined at paragraph 10 (aa) of Schedule 6 of the Police Act 1996. It is a person who is not, and never has been, a member of a police force, or special constable, civilian police staff, local policing body or other policing body as per the Act.

- 2.6 The guidance states at paragraph 26.15 and 26.16:

*“The members of the tribunal should be chosen on a fair and transparent basis by the local policing body [ie PCC]. There is a clear need for flexibility within this process but good practice would be for the local policing body to select chairs and laypersons on a random basis to ensure that all members are given the same opportunity for hearing cases. It is also good practice for the local policing body to publish, or be open to publishing, how their system operates.*

*The method of selection is an important principle of fairness for the officer concerned and ensuring proceedings are conducted in accordance with principles of natural justice in order that the selection itself and any subsequent proceedings cannot be called into question on the basis of any perceived, or actual, unfairness.”*

- 2.7 Where the appellant is a senior officer, the Tribunal shall consist of:

- a Legally Qualified Chair taken from the list maintained by the Home Office;



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- HM Chief Inspector of Constabulary and Fire and Rescue Services or an Inspector nominated by the Chief Inspector; and
- the Permanent Secretary to the Home Office or a Home Office Director nominated by the Permanent Secretary.

2.8 The Guidance also states at paragraph 26.18 and 26.19:

*"In the interests of fairness, an individual should not sit on a tribunal for any officer if they have already heard the same case at a misconduct meeting or misconduct-hearing.*

*It is the responsibility of the local policing body to satisfy itself that the members who are sitting on the tribunal are sufficiently independent of the matter so as not to give rise to any suggestion of unfairness."*

- 2.9 This document sets out the approach of the Local Policing Bodies within the North West Region to selecting, where they have a discretion, the membership of Police Appeals Tribunals.
- 2.10 The Local Policing Bodies will, in selecting such membership, take full account of their statutory obligations and the guidance.
- 2.11 The Local Policing Bodies will when selecting the Legally Qualified Chairs as referred to in paragraphs 2.5 and 2.7 above, and having full regard to their obligations and guidance, make their selection on a random basis and with a view to ensuring that those on the Home Office list are given equal opportunity to hear cases.
- 2.12 In selecting lay persons as referred to at paragraph 2.5.3 above, the Local Policing Bodies for the Northwest Region have determined that those Independent Members appointed by them for the purpose of Misconduct Panels will form the pool of laypersons from which individuals may be drawn to serve as appropriate upon a Tribunal, and where full regard will be had to the Guidance referred to above.
- 2.13 The process for selecting a lay person will, as appropriate, follow the same process as for selection of Independent Panel Members for Misconduct Panels, and an approach for a layperson to the relevant Police and Crime Commissioners or Mayor's Office, will follow the same cab rank principle by using the name of the next available Independent Panel Member on the list.
- 2.14 No Independent Panel Member will be appointed as a lay person if they have already heard the same case at a misconduct hearing.
- 2.15 It is for the relevant Police and Crime Commissioner or Mayor to ensure that their formal selection and appointment decisions are made for the purposes of Schedule 6 to the Police Act 1996 and the Police Appeals Tribunals Rules 2020, in accordance with their own internal decision-making arrangements.



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### 3 Publication

- 3.1 The Local Policing Bodies for the Northwest Region have all agreed to publish this document on their websites so that their approach to appointment of misconduct panels and police appeals tribunals can be seen to be fair and transparent.