

DECISION NOTICE

Decision author and proposer: Lisa Lees – Strategic Planning Manager

Subject / Title:

Indemnity for Legally Qualified Persons & Independent Panel Members for Police Misconduct Panels.

Type of decision:

Deputy Mayor’s decision

X

Chief Officer’s decision

In all cases this will need to be approved by the Director Police, Crime, Criminal Justice and Fire.

The Decision is:

To provide Indemnity to Legally Qualified Persons and Independent Panel Members for Police Misconduct Panel arranged thus far for 2024/25 in accordance with the additional wording recommended by the Association of Police and Crime Commissioners as follows: -

In respect of the case of which is to be held on the Greater Manchester Combined Authority (the legal entity in which the property, rights and liabilities of Police and Crime Commissioner for the Greater Manchester area are vested) agrees to indemnify you as the Legally Qualified Person (“LQP”)/ Independent Panel Member (“IPM”) in respect of: -

- (i) 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 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, the GMCA agrees to indemnify you in full in respect of any such liability.
- (ii) any costs you may incur as a consequence of your being in receipt of a witness summons/order (or an application therefor) to give evidence in any court or tribunal of whatever nature concerning and/or relating to your and/or the Panel’s conducting of those proceedings and/or the decisions of the Panel in those proceedings. For the avoidance of doubt, this indemnity includes, but is not limited to, any costs you may incur:

- In seeking legal advice in relation to the receipt of a witness summons/order or an application therefor.

- In relation to the preparation of any representations and/or witness statements in relation to an application for a witness summons/order and/or in relation to an application to set aside the issuing of a witness summons/order.
- In relation to securing legal representation at any hearing of an application for a witness summons/order and/or the hearing of any application to set aside the issuing of a witness summons/order.
- In relation to the costs (including costs of legal representation) of participating in any appeal and/or application for judicial review (and any appeal therefrom) arising as a consequence of your being in receipt of an application for a witness summons/order or an application therefor; and
- In relation to attending a hearing or hearings, including the time spent thereat.

However, save where the issue/matter needs to be addressed by you immediately, no costs to which this indemnity applies should be incurred by you before you have notified the Director Police, Crime, Criminal Justice and Fire of the GMCA of the nature and extent of the issue/matter giving rise to a claim under it.

The reasons for the decision are:

The GMCA has responsibility under the Police (Conduct) Regulations 2020 for the attendance at Police Misconduct Panels of a Legally Qualified Chair (LQP) and Independent Panel member (IPM).

The LQP's role is to sit on the Panel in an advisory capacity. This will not be a decision-making role, but they will be responsible for providing legal or procedural advice.

The IPMs provide independent and impartial views at the misconduct panel. Concerns have arisen regarding the indemnification of LQPs involved in the misconduct process, which provides LQPs with security against legal liability, provided they act in good faith during the misconduct panel process. This arises from the potential of a claim for damages against misconduct panel members arising from an Equality Act claim before the Employment Tribunal at present.

On 26th November 2021 the GMCA was informed by the President of the National Association for LQCs (NALQC) that the organisation had informed the Home Secretary, H.M. Government, that the NALQC had advised its members that they should refuse to accept any further LQP appointments until this matter has been resolved nationally and specifically worded indemnity is provided by PCCs to its members.

As a result, the majority of LQPs were refusing to sit on misconduct panels until an agreed form of indemnity was provided.

In October 2022, a further development arose out of an LQP having been summoned by an employment tribunal to give evidence about a Police Misconduct Panel hearing they chaired and the decision they reached.

The previous decision notice refers to the form of wording that was agreed with LQPs at that point in time but is now deemed by LQPs to be insufficiently robust to provide sufficient assurance in the event of legal action being taken against them. The purpose of this decision notice is to seek the approval to adopt the revised wording agreed by the Association of Policing and Crime Chief Executives (APACE), APACE and National Association of LQPs as a form of indemnity which offers LQPs and IPMs assurance that they are covered for damages unless it is shown in a court or similar that they have acted in bad faith.

This is similar to the wording of the magistrate's indemnity set out in the Courts Act 2003. It provides the GMCA with a backstop to ensure that LQPs act professionally in their role as a panel chair under the previous regulations. The GMCA has been advised to adopt the indemnity wording that is detailed in this decision notice by the Association of Police and Crime Commissioners (APCC). It is recommended that this wording be used until such time that the Home Office agrees an appropriate legislative solution for LQPs and IPMs.

This decision will contribute to priorities of the Greater Manchester strategy in the following ways:

To ensure that GMP are able to implement agreed national standards for the execution of force disciplinary procedures.

Financial comments:

This is an interim solution until such time that judicial immunity will be sought for misconduct panels in legislation to put the matter beyond doubt and protect misconduct panel members from civil claims.

Legal comments:

Advice has been provided through GMCA and the Deputy Monitoring officer.

Risk assessment:

To ensure that GMP are able to implement agreed national standards for the execution of force disciplinary procedures.

Is safeguarding of children relevant and has this been considered:

N/A

Is safeguarding of vulnerable adults relevant and has this been considered:

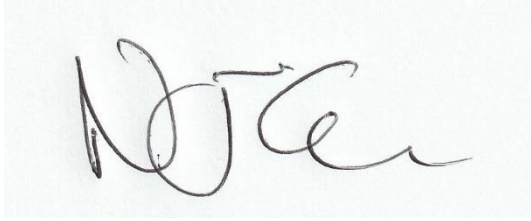
N/A

Scheme of Delegation:

The Mayor's Scheme of Delegation says that the Chief Executive of the Greater Manchester Combined Authority has authority to sign indemnities.

8.3.7 To sign, on behalf of the Mayor, any indemnity needed to enable him/her to perform any legal duties. However, if giving an indemnity could have significant financial implications, that indemnity can only be signed with the approval of the Treasurer to the GMCA.

Agreed by Director – Police, Crime and Fire Team:



Signed:

Date: 12th June 2024

Agreed by Treasurer - GMCA:



Signed:

Date: 13th June 2024

Agreed by Deputy Mayor:

Signed: 

Date: 25th July 2024