



KENT POLICE AND CRIME COMMISSIONER
INDEPENDENT MEMBERS OF POLICE MISCONDUCT
PANELS

MEMORANDUM OF UNDERSTANDING

Memorandum

1. This document sets down the principal conditions of appointment and associated matters for Independent Members in Kent.
2. Appointment as an Independent Member is initially for four years with a full review of continuing suitability at the end of that time. Subject to that review, a further period of service may be agreed.
3. Independent Member appointments will be subject to satisfactory police vetting checks in accordance with procedures adopted by the Police and Crime Commissioner (PCC)/Force of the appointing PCC.
4. The role and responsibilities of Independent Members of Misconduct Panels and the personal qualities and skills sought are set out in the attached Job Description/Person Specification (Appendix 1).
5. Whilst members will be appointed by individual OPCCs, all members' names and contact details will be held by all five Offices in the South East region. This is in order to facilitate ease of contact where an independent member is required from another region owing to demand or a conflict of interest. All details will be held securely and in strict adherence to GDPR.
6. The independence and impartiality of Independent Members is a fundamental requirement of the misconduct panel process. Persons falling within the 'exclusion' categories listed below will not be eligible for appointment as Independent Members. In accepting appointment, Independent Members have declared that they do not fall into any of the listed categories. Similarly, on-going independence is essential and Independent Members must immediately inform the Chief Executive or Head of Standards in the OPCC if there is any change in their circumstances that may affect their eligibility to continue as an Independent Member.

Exclusions

- Serving and retired police officers;
- Serving and retired police staff;
- Serving and retired special constables;
- Current and former police and crime commissioners (from any Force area);
- Current and former PCC staff (from any Force area);
- Former police authority members (from any police authority)
- Undischarged bankrupts;
- Anyone whose estate has been sequestrated and the sequestration has not been recalled or reduced or a discharge has not been obtained;
- Anyone who has made a composition or arrangement with, or granted a trust deed for their creditors and has not paid off the debts in full or five years have not yet passed since the terms of the deed of composition or arrangement or trust deed were fulfilled;

- Anyone who is subject to a disqualification order under the Company Directors Disqualification Act 1986, or to an order made under Section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order).

7. In order to maintain confidence in the process, the OPCC will not normally appoint someone with unspent criminal convictions (with the exception of fixed penalties). Each case will be considered on its merits. Persons applying to become Independent Members will be subject to a criminal record check prior to appointment. Independent Members appointed must immediately notify the Chief Executive or Head of Standards in the OPCC if they are reported, or arrested for, or charged with a criminal offence.

8. We may also consider it to be inappropriate to appoint anyone because of perceived conflict of interest through relationships (e.g. family or close friends) with a PCC or officer of the OPCC, or a police officer or member of police staff or special constable in Kent Constabulary. Persons applying to become Independent Members are required to declare any such relationships on their application form. Independent Members appointed must immediately notify the Chief Executive or Head of Standards in the OPCC of any subsequent relationships that may give rise to a perceived conflict of interest with the Independent Member role.

9. All new Independent Members may be required to attend an approved one-day regional training course before they are allowed to sit on a Misconduct Panel. The OPCC may also arrange a local induction training session for Independent Members on the role of PCCs and familiarisation generally with constabularies. Refresher training will be provided as deemed necessary.

10. Whilst there will only be a formal appraisal of an Independent Member's performance when that member wishes to be re-appointed, the Chair of a Panel, or other officiating police officer on a panel, will be expected to bring to the attention of the Chief Executive or Head of Standards in the OPCC any concerns about the performance of the Member against the person specification criteria or any other matter. The appointing PCC will consider any concerns received in accordance with paragraph 11 below.

11. Similarly, appointing PCCs will welcome feedback from Independent Members at any stage on their experiences of the process, including any concerns they may have about officiating Police Officers' attitudes and performance. Such feedback should be referred by the Independent Member to the Chief Executive or Head of Standards in the OPCC.

12. Any concerns about an Independent Member or his/her performance and/or conduct will be discussed with the individual by the Chief Executive or Head of Standards in the OPCC or his/her nominated representative. However, should the matter remain unresolved the procedures for considering possible removal would be invoked (see paragraph 14 below).

13. Misconduct may include such matters as a conviction for a criminal offence or abusing the position of an Independent Member by failing to act in accordance with the agreed Job Description/Person Specification.

14. The appointment of an Independent Member may be suspended at any time by the Chief Executive in the OPCC upon receiving a report of misconduct or poor performance on the part of the Independent Member.

15. The Chief Executive in the OPCC may terminate the appointment of an Independent Member having considered a report of misconduct or poor performance on the part of the Independent Member, providing that before a decision to terminate or not is taken an opportunity is given to the Independent Member in question to make oral and/or written representations to the Chief Executive in the OPCC. The Chief Executive in the OPCC will notify the Independent Member of the grounds on which removal is being considered in advance of their being given the opportunity to make representations.

16. An appeal lies from this decision to the appointing PCC

17. Independent Members of Misconduct Panels may claim a fee for all sittings and preparation time, and travelling, subsistence and accommodation expenses, in accordance with the attached rates and guidance (Appendix 2).

Signed:

Date:

APPENDIX 1 **JOB DESCRIPTION**

Position

Independent Member of Police Gross Misconduct Panel

Role

- To assist gross misconduct panels in coming to fair and evidence based judgements about a particular officer's conduct and deciding on an appropriate sanction.
- To ensure that there is an independent and impartial voice on such panels.
- To provide assurance to the community that conduct matters are treated seriously and that misconduct proceedings are being properly investigated and adjudicated.

Responsibilities

- To attend and participate effectively in misconduct hearings as required.
- To challenge constructively accepted facts and views in these hearings where appropriate.
- To prepare for such hearings by considering in advance relevant papers, reports and background information.
- To take advantage of any training offered that is relevant to the role, and to take a proactive approach to considering what additional development would be appropriate.
- To keep abreast of general developments affecting policing, both locally and nationally, that may have an impact on the role of independent member of a misconduct panel.
- To maintain the highest standards of professional conduct and ethics.

PERSON SPECIFICATION

Independent Member of Police Misconduct Panel

- **Analytical Skills**
The ability to interpret and question material relevant to the case under consideration.
- **Effective judgement**
The ability to take a balanced, open minded and objective approach to the issues and come to evidence based conclusions that are robust and will withstand challenge.
- **Strong communication skills**
The ability to clearly and cogently articulate views while being receptive to the opinions of others.
- **Independence**
The capacity to think independently while being part of a wider panel, demonstrating resilience to external and peer pressure.
- **Self confidence**
The ability to challenge the accepted view of senior police officers on the panel in a constructive but non-confrontational manner.
- **Time management**
An appropriate level of commitment to the process, ensuring that sufficient time is set aside to both attend and prepare for hearings.
- **Integrity**
Embraces high standards of conduct and ethics.
- **Diversity**
A commitment to fairness and equality.

KENT POLICE AND CRIME COMMISSIONER
GUIDANCE FOR INDEPENDENT MEMBERS OF POLICE MISCONDUCT
PANELS ON THE CLAIMING OF FEES AND EXPENSES

SITTINGS FEES

Fees may be claimed at the following rates:

Full day, i.e. sitting of more than 4 hours (excluding meal breaks) **£212.50**

Half day, i.e. sittings of 4 hours or less (excluding meal breaks) **£104.50**

The “fees” rates may be claimed for all meetings of the panel.

It is recognised that a sitting of less than 4 hours plus travel **on the same day**, may cause a member to give up a whole day for a half-day session. Members may claim for a full day’s sitting where the sitting is less than 4 hours (excluding meal breaks) and where travel on the same day as the sitting together total over 7 hours.

Members may claim the following fees when the hearing/part hearing was cancelled.

Cancelled with more than two weeks’ notice: no payment

Cancelled with less than two weeks’ notice: one day’s pay and any preparation undertaken. Includes where hearings have been booked for a certain number of days, but end up being shorter.

To only be paid where costs cannot be mitigated (eg. where person is self-employed).

LONG SITTINGS

2. Where the length of a panel sitting exceeds 7 hours (excluding meal breaks) a claim may be made for a long sitting. The allowance payable is 1/14 of the normal daily rate for each hour, or part thereof, in excess of 7 hours.

PREPARATION FEES

3. A fee may be claimed at the rate of **£15** for each hour necessarily spent in preparatory work in advance of a hearing (e.g. reading relevant papers, reports and background information). This fee may, however, only be claimed where it is necessary for the work to be undertaken on a day other than the day(s) on which the hearing takes place, except that the fee may be claimed even in these circumstances if the sittings fee is paid at the half-day rate.

TRAINING

4. A fee of £100 may be claimed for attending the initial one-day training course and familiarisation session for new members (i.e. one fee to cover both sessions). Training for appointed members will be at the standard day rate.

TRAVELLING EXPENSES

5. Members may be paid their travelling expenses between residence and place of duty. Any necessary travel to a panel sitting may be undertaken by standard class train travel. If claiming reimbursement of rail fares you must either provide a receipt or enter on the claim the rail ticket and date and place of issue.

Travel by car may be claimed at Her Majesty’s Revenue and Customs (HMRC) approved rates as follows:

Up to 10,000 miles irrespective of engine capacity **45 pence per mile**;
Incidental travelling expenses e.g. bus/tube fares, may also be claimed. Taxi fares may be reimbursed only in the following circumstances: for journeys for which there is no other suitable method of public transport, or where heavy luggage has to be transported to or from the place of departure or arrival. This should be agreed in advance unless there are extenuating circumstances. A receipt for travel by taxi must be provided and where not agreed in advance, full reasons must be given in writing and included or attached to the claim form. Full details of each step of the journey should be shown. 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. There is no provision for payment of travelling time to members.

NIGHT SUBSISTENCE

6. Payments for a night/s subsistence allowance may be claimed if you are absent from your normal place of residence for a period of 24 hours or more and necessarily incur expenditure on accommodation, meals and incidental travel (see above) which is additional to what would have been incurred at home. This allowance is therefore intended to cover the hotel costs plus all meals and incidental expenses for a period of 24 from the time of departure from home. This can only be agreed with the OPCC in advance, and a booking in a local hotel will be made via the OPCC. In addition, members may claim the costs of dinner, lunch and local travel, where receipts are provided, up to **£10 lunch, £16 dinner.** Members who stay free of charge with friends or relatives may claim the flat rate allowance of **£26** to cover dinner, lunch and local travel. **All claims** must be vouched by a receipt for the cost of bed and breakfast which should be attached to your claim form. If they are not, only the flat rate allowance of **£26** will be payable.

DAY SUBSISTENCE

7. 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 member is absent from home. The rates are as above.

The sole purpose of subsistence allowances is the reimbursement of extra expenditure necessarily incurred and they are in no sense a payment of services.

