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Originator: Ruth Greenwood

Decision number: D06-2018

Submitted to: Martin Surl, Police & Crime Commissioner for Gloucestershire

Subject: Creation of Independent Appeals Officer Post

Executive summary:

In line with the requirements outlined in part two of the Policing and Crime Act 2017, the PCC must consider how he wishes to respond to the new duty of managing complaint appeals currently dealt with by the Constabulary.

This paper recommends that a similar model to that developed in Wiltshire be adopted in Gloucestershire whereby a joint Constabulary / OPCC role is established to manage complaint appeals. This ensures independence is built into the complaints process as required by the Policing and Crime Act but also means changes can be made prior to legislation enactment.

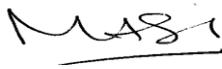
Recommendation:

The PCC's Governance Board is asked to support the recommendation to create and advertise the post of Independent Appeals Officer.

Outcome/approval by:

Date: 27 March 2018

Signature:



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| <p>Public access to information</p> <p><i>Information in this form and associated reports is subject to the Freedom of Information Act 2000 and the Elected Local Policing Bodies (Specified Information) Order 2011. Where it has been indicated that this is a decision of significant public interest, all of this form except Part Two will be made available on the website of the OPCC.</i></p> <p><i>Any information that should not be automatically available on request should not be included in Part One but instead on a separate Part Two form.</i></p> | |
| <p>Is this a decision of significant public interest?</p> <p><i>This includes a decision with any impact on the community, expenditure in excess of £50,000, or any decision that would be of obvious interest to the media or the general public</i></p> | <p>Yes – the decision will demonstrate to the public that the Commissioner is keen to embrace opportunities for increasing independence and transparency in the complaints process. This is in line with the spirit of the legislative changes contained within part two of the Policing and Crime Act 2017.</p> |
| <p>Is there a Part Two form? <i>This section should only include information that, if published:</i></p> <ul style="list-style-type: none"> a) <i>would, in the view of the chief officer of the police, be against the interests of national security;</i> b) <i>might, in the view of the chief officer of police, jeopardise the safety of any person;</i> c) <i>might, in the view of the chief officer of police, prejudice the prevention or detection of crime, the apprehension or prosecution of offenders, or the administration of justice; or</i> d) <i>is prohibited by any enactment.</i> e) <i>breaches commercial sensitivity</i> | <p>No</p> |
| <p>Originator checklist (must be completed)</p> | <p>Comments including who has approved the report if applicable</p> |
| <p>Has legal advice been sought on this submission if required?</p> | <p>Yes – please see appendix one.</p> |
| <p>Has the Chief Finance Officer been</p> | <p>Yes.</p> |

[Title of Decision Paper]

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| <p>consulted, if required?</p> | <p>The Chief Finance Officer has been consulted through discussion at COG/OPCC meetings (April & September 2017) and Commissioner's Management Team on numerous occasions.</p> |
| <p>Have equality, diversity and human rights implications been considered, as appropriate?</p> | <p>Yes in line with legislative requirements for the post. See the minimum criteria included in the job description / person specification in appendix three.</p> |
| <p>How is the recommendation consistent with the objectives of the Police and Crime Plan?</p> | <p>The recommended post will support the Accountability and Accessibility priority within the Police and Crime Plan.</p> <p>Complaints against the Police are also specifically mentioned in the Police and Crime Plan under <i>future responsibilities</i> (page 6). The Plan highlights the opportunity of increasing independence in the complaints process which will be achieved with this post.</p> |
| <p>Has consultation been undertaken with people or agencies likely to be affected by the recommendation?</p> | <p>The proposal has been developed through joint work between the OPCC and PSD and has involved discussion with COG/OPCC for views and strategic approval. Consultation regarding changes to the complaints process has also been carried out with staff at a workshop held on 14/08/17 and prior to this with staff representatives (The Federation and Unison). These discussions focused more on legislative changes and subsequent opportunities but feedback welcomed the opportunity to increase independence and transparency in any new process.</p> <p>The Commissioner's Ethics Panel has also been consulted. This is a group of representatives from the community that consider ethics in relation to the OPCC. The Ethics Panel is a sub group of the Commissioner's Forum and complaints model changes is a standing item on meeting agendas. At the meeting held on 29/01/18, the Independent Appeals Officer proposal was discussed and supported by Ethics Panel members.</p> |

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| | <p>Please see appendix two for comments from the Independent Office for Police Conduct (IOPC).</p> |
| <p>Has communications advice been sought on areas of likely media, community, staff or partner interest and how they might be managed?</p> | <p>Other than general discussions at Commissioner's Management Team, formal consultation has not taken place with regards to media. Should members agree with the proposal however, further discussions with staff associations and the C&E Team will take place to agree how this post will be communicated and advertised to staff and public. Advice from the Ethics Panel will also be sought regarding communicating the role to the public.</p> |
| <p>Have all relevant implications and risks been considered?</p> | <p>The PCC's response to complaints changes brought about by the Policing and Crime Act is included in the OPCC activity plan and risk register. The total score for risk is currently 4 and therefore this activity is deemed to be low risk.</p> |

Part One – For publication

1. Purpose of the report

The purpose of this report is to seek formal approval for the creation of a joint Constabulary / OPCC Independent Appeals Officer post. The post will enable the Force and OPCC to make the required changes to the management of complaint appeals as per the Policing and Crime Act 2017 (hereafter referred to as the 'Act'). The creation of the post will also enable these changes to be made ahead of legislation enactment.

This report only covers the mandatory element of part two of the Act relevant to PCCs – this is often referred to as 'model one'. Models two and three, whereby PCCs can consider taking on responsibly for complaint handling, is not covered in this report; these should be considered at a later date once this post has been established and organisational learning has been gathered.

2. Background

The Policing and Crime Act contains measures that support the Government's commitment to "finish the job of police reform". The Act is in nine parts and part two is concerned with police complaints, discipline and IPCC (now Independent Office for Police Conducts / IOPC) reform. The intention is to "*make the police complaints and discipline systems simpler, more transparent and more robust.*"¹

In order to achieve this, the Act seeks to strengthen the role of PCCs in the complaints process by placing a duty on Commissioners to take over a number of functions which are presently the responsibility of the Chief Constable. These are:

- An explicit duty on PCCs in relation to the oversight and performance of the complaints process;
- PCCs becoming the body to deal with all reviews, currently known as appeals and heard by the Chief Constable;
- After considering a review, PCCs will be able to recommend how the complaint should be resolved. Chief Constables will be expected to co-operate with PCCs to achieve a satisfactory outcome.

The intention from Government was to implement the changes contained within part two of the Act in three phases, where the completion of one phase leads to the next. To articulate this, the Home Office produced an indicative timeline. Unfortunately, milestones included in this timeline have had to be revised a number of times due to legislative commitments emanating from Brexit and delays caused by the 2017 General Election. As the reforms contained in the Act are intrinsically linked, legislation enactment, planning and implementing changes has been challenging.

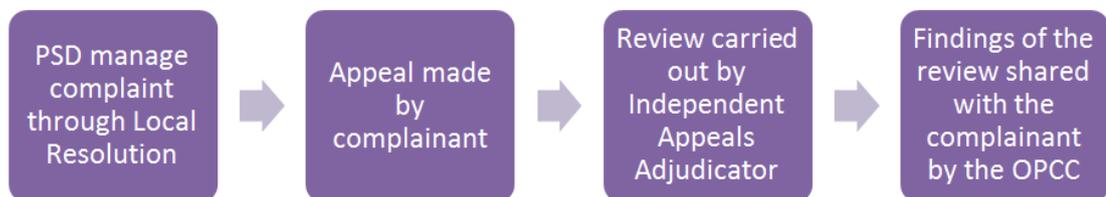
¹ (Then) Home Secretary Theresa May, Policing and Crime Act Second Reading Debate, House of Commons 7 March 2016.
[Title of Decision Paper]

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Exploration work has been carried out by the OPCC and PSD into options available to the Commissioner around model one implementation (background papers presented to COG / OPCC in September detail this work). After considering best practice from other areas and guidance from the Home Office and IOPC, the favoured option is to replicate the model developed over some time in Wiltshire – the Independent Appeals Adjudicator role.²

This option offers the ability to enhance independence within current legislation by developing a joint role between the OPCC and the Constabulary. This means that the Chief Constable can continue to delegate responsibility to a Constabulary staff member however, the post holder will sit within and be managed by the OPCC. This ensures sustainability as, when the provisions of the Act are enacted, the post holder will become solely an OPCC employee.

The process involving an Independent Appeals Officer will be as follows:



The OPCC understands that a number of other Commissioners are currently also considering this model for the same reasons outlined above.

3. Recommendation(s)

The PCC's Governance Board is asked to formally agree to the establishment of the Independent Appeals Officer Post and to allow the OPCC to commence the recruitment process.

4. Financial and resource implications

Analysis of appeals from complaints dealt with by local resolution over a three year period indicates the Force currently manages an average of 45 appeals a year³. It is therefore recommended that the post holder will be contracted to work five days a month / sixty days a year (this may require review however). Based on benchmarking similar roles and via consultation with HR, the salary for this part time post has been graded at £18,000p.a. This equates to c. £22,500 with on costs.

In order to comply with current Conduct Regulations, the post holder has to be a member of "police staff". This means they have to be an employee rather

² <http://www.wiltshire-pcc.gov.uk/Events-and-Engagement/News-Archive/2013/PCC-appoints-independent-Appeals-Adjudicator.aspx>

³ From April 2016 to mid March 2017, PSD recorded 409 cases which resulted in 786 allegations relating to 654 subjects from 421 complainants. There are on average 45 appeals (based on the last three years) resulting from local resolutions a year. Data from Gloucestershire Constabulary, PSD [Title of Decision Paper]

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than a contractor. Therefore the post will have to be salaried and costs must include employer's NI, pension contributions etc. Although the post will be subject to cost of living increases, it will be 'spot salaried' and therefore not on a scale or career grade.

It is envisaged that the post holder will 'hot desk' in the OPCC but will also be provided with IT to facilitate home working. Depending on the experience of the successful candidate expert advice from PSD will be required initially, case management / administrative support will be provided by the OPCC Contact and Complaints Officer.

Data sharing between the OPCC and PSD / Constabulary has already been agreed and formalised through a data sharing protocol which allows OPCC access to Centurion (PSD case management system).

5. Risk assessment

Risks associated with the development of the post have been considered as part of the options paper presented to COG OPCC in September 2017. The risks associated with not complying with the mandated duties outlined in the Act are considered greater than those associated with the creation of the post.

6. Equality & Diversity impact assessment

The OPCC is unaware of any issues in this regard.

7. Environmental impact assessment

The OPCC is unaware of any issues in this regard.

8. Consultation

The proposal has been developed through joint work between the OPCC and PSD and has involved discussion with COG/OPCC for views and strategic approval. Consultation regarding changes to the complaints process has also been carried out with staff at a workshop held on 14/08/17 and prior to this with staff representatives (The Federation and Unison). These discussions focused more on legislative changes and subsequent opportunities but feedback welcomed the opportunity to increase independence and transparency in any new process.

The Commissioner's Ethics Panel has also been consulted. This is a group of representatives from the community that consider ethics in relation to the OPCC. The Ethics Panel is a sub group of the Commissioner's Forum and complaints model changes is a standing item on meeting agendas. At the meeting held on 29/01/18, the Independent Appeals Officer proposal was discussed and supported by Ethics Panel members.

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Please see [appendix one](#) for legal consultation and [appendix two](#) for comments from the Independent Office for Police Conduct (IOPC).

9. Discussed with Communications & Engagement

Other than general discussions at Commissioner's Management Team, formal consultation has not taken place with regards to media. Should members agree with the proposal however, further discussions with staff associations and the C&E Team will take place to agree how this post will be communicated and advertised to staff and the public. Advice from the Ethics Panel will also be sought regarding communicating the role to the public.

10. Conclusion

The PCC's Governance Board is asked to support this proposal.

Originator approval

Name: Ruth Greenwood

Job title: OPCC Policy Officer

Signature: 

Date: 20/03/18

Deputy Chief Executive approval

I am satisfied that relevant advice has been taken into account in the preparation of the report and that this is an appropriate request to be submitted to the PCC.

Signature: 

Date: 21/03/2018

Appendix One: Legal advice – *Redacted due to Legal Professional Privilege*

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Appendix Two: View from the IOPC regarding development of the Independent Appeals Officer Post, R Reed, Oversight Manager IOPC (12/01/18)

Hi Ruth,

Sorry you've not had a response from us yet. We're very happy to discuss the detail with you to make sure any initiative is compliant with the PRA as it currently stands. The one immediate and obvious thing to state is that you will need to make sure that your employment contracts are done in a way to ensure that the person making decisions on appeals is 'under the direction and control of the Chief Officer'. As you mention below, Wiltshire have got round this by having joint contracts with both the force and the PCC.

In terms of other things to consider, obviously there will need to be the requisite training (and if you would like us to come and share some best practice on assessing appeals, we are happy to do so) and you might just need to think about welfare considerations – I'm presuming you are going to have one person assessing all appeals, or will there be a small group of people doing it along with other roles? – and ensuring that you have the policies in place to manage customer contact if needed.

I've attached our general advice sheet on the various PCC models – it gives a list of things that just need to be thought about with the various models and includes some of the issues for taking on appeals (reviews). We're also imminently about to publish a guidance note on appeals handling following a dip sampling of force appeals that we conducted in 2017.

I hope that helps – please do not hesitate to come back to us for anything further.

Kind regards

Rebecca



Notes on new PCC
involvement models c

Appendix Three: Agreed job description / person specification for the Independent Appeals Officer post.

OPCC Constabulary Shared Role – Independent Appeals Officer

The purpose of the role is to undertake the role of:

- the Appeals Officer as defined and laid out in the Police (Complaints and Misconduct) Regulations 2012 (except where Regulation 30 applies) as the relevant appeal body;
- An independent investigator of complaints where the Police and Crime Commissioner is the appropriate authority; and
- an adjudicator of appeals against the findings of the Constabulary in respect of complaints where the Chief Constable is the appropriate authority.

This will require a capacity to research and judge evidence and make decisions on appeals.

Rank/Grade

£18,000 p/a

Role will be for 5 full days per month (60 days a year) based on an approximate caseload of 45 appeals per year.

Reports To

Chief Executive of the OPCC / Chief Constable

Requirements

Vetting Level: Personnel will be vetted to the NPPV level 2. A higher level of vetting may be required for certain roles or grades and suitable clearance will be required before appointment or deployment.

Mobility: The OPCC reserves the right to require you to carry out any other duties or move you to any other post appropriate to your grade, at any location within the county of Gloucestershire, as business requirements dictate.

Working Pattern: 5 days per month on a basis to be determined. This is based on an approximate caseload of 45 appeals/reviews per year.

Standards of Professional Behaviour as incorporated into the Code of Ethics: All members of OPCC / Police Staff/ Police Officers must comply with these standards

Travel: The post holder may be required to travel to meetings around the county.

Training and development: Undertake the required training and development to maintain working knowledge.

Minimum Criteria

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| Qualifications: | <ul style="list-style-type: none"> • Educated to degree level or equivalent plus • postgraduate degree or qualification as a barrister, solicitor or legal executive in England and Wales. |
| Experience: | <ul style="list-style-type: none"> • Experience of working as an investigator or researcher in a public service environment. • Previous experience of undertaking interviews with people. • Experience of working under pressurised time constraint conditions. |
| <ul style="list-style-type: none"> • Skills: | <ul style="list-style-type: none"> • Must have well-developed analytical skills and demonstrate an ability to understand complex issues to reduce them to their essential elements. • Ability to deal competently with heavy workloads to high standards of performance. • Must have highly developed oral and written communication skills and be able to communicate in a calm and patient manner with individuals and small groups,. • Ability to demonstrate a methodical approach. • Ability to demonstrate a flexible approach to workload and working hours. Ability to work under pressure and to deadlines. • Ability to network and develop and nurture professional relationships. • Ability to display creativity and innovation in response to problems and flexibility when considering courses of action. • Enquiring and investigative mind. • Ability to work as a team member but also able to work unsupervised. • High level of integrity, discretion and confidentiality. • Ability to use own initiative during the course of investigations within the terms of reference established by the Appropriate Authority. • Ability to assess, evaluate, and prioritise workload and produce reports as required. • Ability to prepare accurate and concise appeal adjudication and investigation reports tailored to the needs of the recipient. • Competent in the use of Microsoft Word |
| <ul style="list-style-type: none"> • Knowledge: | <ul style="list-style-type: none"> • Good knowledge of relevant Acts, Regulations and procedures (see below) or be able to demonstrate a basic knowledge of them or a facility to understand the requirements in a very short time-scale. • General awareness of equality and diversity issues in the working environment. • Awareness of workplace health & safety issues. • Understanding of confidentiality and Data Protection/Freedom of Information issues. |
| <p>Working knowledge of the following would be desirable:</p> <ul style="list-style-type: none"> • Policing and Crime Act 2017 • Police (Complaints and Misconduct) Regulations 2012. • Police Reform Act 2002. • Police and Criminal Evidence Act 1984 and Codes of Practice under this Act. • Police Regulations 2003. • Police (Complaints and Misconduct) Regulations 2008. • IOPC Statutory Guidance. | |

- Relevant Police Procedures and Policies.
- Understanding of your responsibility under Equal Opportunities and the way in which your role may impact on minority and more vulnerable communities within Gloucestershire.
- Understanding of relevant health & safety issues within your working environment.
- Understanding of the impact of the Human Rights Act 1998 on the organisation and the role that you undertake.
- Understanding of Data Protection and Freedom of Information issues within your working environment.

Policing Professional Qualities [Show More >>](#)

PPQ Category: Policing Professional Framework

Portfolio Type [Show More >>](#)

NOS Code

NOS Title

Main Responsibilities

- 1 Make Appeal Determinations** – Review files subject to appeal and where appropriate, interview complainants and witnesses (both police and public), identify any new lines of enquiry, gather, secure and process evidence/documentation/exhibits. Make a written report on Appeal Determination to the Appellant, and to the Commissioner and Chief Constable.
- 2 Undertake Chief Constable Complaint and Conduct Investigations** – Interview complainants and witnesses (both police and public) in relation to complaint and misconduct investigations concerning chief officer, identify lines of enquiry and oversee investigative process as required, discharge the responsibility of the Appropriate Authority on behalf of the Commissioner, communicate findings to the Commissioner with appropriate recommendations.
- 3 Monitor the rigour and fairness of the complaints process** - The work involves support of the PCC’s Ethics Panel in dip-sampling files. The post holder will exercise a high level of authority and autonomy in doing this.
- 4 Handling of evidence / exhibits** – Collect, or receive exhibits associated with investigations in such a manner as to maintain their evidential credibility and continuity.
- 5 Preparation of files** - At the conclusion of an investigation or appeal, review and prepare a covering report and file of evidence for consideration by the Appropriate Authority with recommendations as to sanction or mandation as required.
- 6 Liaise with other agencies** - Liaise with outside agencies in relation to the gathering and preparation of evidence, such as CPS, IOPC, Solicitors, Doctors, Hospitals, etc.
- 7 Local Resolution** - Undertake Local Resolution of complaints against the Chief Constable in accordance with the Regulations, to dispose of appropriate complaints quickly and to the satisfaction of the complainant.
- 8 Force engagement** – To liaise with operational managers in the Force and provide

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them with support or guidance that will help them to deliver against the IOPC KPIs regarding timeliness of resolution of complaints.

9 Department and Self Development – Take responsibility for developing and maintaining up to date knowledge and skills through networking and other methods. Attend and participate in training courses, seminars and regional meetings. Where appropriate, disseminate good practice to the organisation.

10 To undertake any other tasks commensurate with the role purpose and grade.

Role Profile : Independent Appeals Officer

Parent Role : *OPCC / police staff*

Date Created : 01/02/18

Last Updated : 01/02/18