

**OPCC**Office of the Police &
Crime Commissioner
for Gloucestershire**AUTHOR: Peter Skelton, Chief Finance Officer****SPONSOR: Peter Skelton, Chief Finance Officer****DECISION NUMBER: 07/2020***(to be completed on approval)***SUBMITTED TO: Martin Surl, Police & Crime Commissioner for Gloucestershire****SUBJECT: Court Compensation Orders****EXECUTIVE SUMMARY:**

The Police and Crime Commissioner for Gloucestershire has agreed to underwrite Compensation Orders paid to police officers where the offender has failed to pay the order awarded by a court. This has recently been extended to Special Constables and Police staff (including PCSO's).

This report explains required changes to the court compensation order process in order to comply with HMRC requirements.

RECOMMENDATION:

The recommendations are

- Where officers and staff do not receive payment from court compensation orders, they will be provided with a loan up to £500. The loan is repayable after two years.
- If funds are not reimbursed through the courts the balance on the loan will be written off.
- The organisation will pay any tax and national insurance contribution liability to HMRC arising from writing off the outstanding amount. (This is likely to be around £1,000 per year).

OUTCOME/APPROVAL BY:

Signature:

Date: 26.05.20

Police and Crime Commissioner for Gloucestershire

<p>Public Access to Information</p> <p><i>Information continued within Constabulary papers is subject to the Freedom of Information Act 2000. Reports which are submitted for consideration at PCC Governance Board are likely to be made public. If the paper contains sensitive information then please detail below.</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>No</p>
<p>Does this report contain sensitive information?</p> <p><i>Does this report contain any information which falls into these categories?</i></p> <p>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>	<p>Record which section(s) applies and explain why.</p> <p>No</p>
<p>ORIGINATOR CHECKLIST (MUST BE COMPLETED)</p>	<p>Comments</p> <p>These sections must not be left blank</p>
Has legal advice been sought on this submission if required?	Yes, for original report to People Development Board
Has the Chief Finance Officer been consulted, if required?	Yes – prepared the paper
Have equality, diversity and human rights implications been considered, as appropriate?	Yes
How is the recommendation consistent with the objectives of the Police and Crime Plan (PCP)?	Change of policy required because of guidance from HMRC.
Has consultation been undertaken with people or agencies likely to be affected by the recommendation?	Yes - Federation
Has communications advice been sought on areas of likely media, community, staff or partner interest and how they might be managed?	No. small number of officers and staff affected.
Have all relevant implications and risks been considered?	Yes – contained within the paper.

Has this paper / proposal been submitted through any other Constabulary boards? If so, please detail along with the result.	Yes – People Development Board. Because of low costs involved decided to remit directly to PCC Governance Board.
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Purpose / key drivers of report

To review the Court compensation order process to ensure compliance with HMRC requirements

1. Background information

The Police and Crime Commissioner for Gloucestershire has agreed to underwrite Compensation Orders paid to police officers where the offender has failed to pay the order awarded by a court. This has recently been extended to Special Constables and Police staff (including PCSO's).

In appropriate cases where no compensation has been received within four months of the court date, application is made to the PCC via the Finance department. There is a limit to any payment made by the PCC of £500 in any one case. The PCC must be reimbursed should the money be subsequently received from the Court.

HMRC have queried the tax treatment of such transactions on the basis that the payment by the PCC is deemed to be a taxable benefit if it is not subsequently reimbursed by the Court. Payments that have been made and reimbursements received since 2016/17 are detailed below.

	Payments to officers (£)	Subsequent reimbursement (£)	Net payment made by PCC (£)
2016/17	1,175	-178	997
2017/18	2,045	-8	2,037
2018/19	2,327	-33	2,294
2019/20 to October	1,930	-234	1,696

The Force currently bears the cost of those payments that are not reimbursed through the Courts, no attempt is made to reclaim the funds from the officer concerned.

The South West regional forces decided in 2018/19 to use the services of a tax specialist to agree a way forward with HMRC on this matter.

2. Main content

An agreement has been reached with HMRC on the approach that should now be taken. HMRC are happy with our arrangements provided they are formalised with a loan agreement. Without this formal element the payment to the individual could be seen as a benefit and would immediately become subject to tax and NI contributions.

To claim payment for compensation four months after the court date the officer or member of staff will now provide the Finance Department with a copy of the court order compensation letter received from HMCTS together with a completed loan application.

A copy of the loan policy is attached at Appendix A and the loan application form at Appendix B.

The loan is either written down as payments are received from the Court or it becomes repayable after two years. If there is a balance outstanding at that time the PCC may decide not to seek repayment of any outstanding amount. If this discretion is exercised either:

1. The individual will pay any tax and National Insurance contributions on the outstanding amount; or
2. Gloucestershire police will pay any tax and National Insurance contributions liability to HMRC arising from the writing off of the outstanding amount.

It is recommended that option 2 above is adopted.

3. Recommendations

The recommendations are

- Where officers and staff do not receive payment from court compensation orders, they will be provided with a loan up to £500. The loan is repayable after two years.
- If funds are not reimbursed through the courts the balance on the loan will be written off.
- The organisation will pay any tax and national insurance contribution liability to HMRC arising from writing off the outstanding amount. (This is likely to be around £1,000 per year).

4. Financial and resource implications

The average level of outstanding court order compensation payments is c. £2,000 per annum. The additional tax and National Insurance contribution payable on this is estimated to be around £1,000 per annum.

5. Risk Assessment

There is a risk that failure to comply with HMRC requirements could result in a significant fine.

6. Equality and Diversity impact assessment

Section 149 of the Equality Act 2010 states that a public authority should carry out an assessment prior to implementing a policy or initiative, with a view to ascertaining its potential impact on equality. Whilst assessments are not required by law, they are a way of facilitating and evidencing compliance with the Public Sector Equality Duty.

7. Environmental impact assessment

N/A

8. Consultation

Consultation has been carried out with the Federation and the paper has been approved at People Development Board.

9. Discussed with Communications & Engagement

N/A

10. Conclusion

That the recommendations are accepted and approved.

SPONSORING BOARD MEMBER APPROVAL

Name: Peter Skelton

Job title: Chief Finance Officer

Signature: Peter Skelton **Date:** 21/05/2020

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: 21/05/20

Papers for information:-

Appendix A – Loan Policy



Compensation LOAN
POLICY.docx

Appendix B – Loan application form



Court Compensation
Loan Application.docx