

## **EASTERN REGION POLICE AND CRIME COMMISSIONERS**

### **INDEPENDENT MEMBERS OF POLICE MISCONDUCT PANELS**

#### **MEMORANDUM OF UNDERSTANDING**

1. The Eastern Region Police and Crime Commissioners (ERPCCs) (see paragraph 19 below) are acting collaboratively to compile and maintain a list of Independent Members to sit on Misconduct Panels as required under regulations issued under the Police Reform Act 2002. This document sets down the principal conditions of appointment and associated matters.
2. Appointment as an Independent Member is initially for five 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 (see paragraph 19 below).
4. An Independent Member will be expected to serve on Misconduct Panels convened by any of the Eastern Region Constabularies (see paragraph 19 below).
5. 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).
6. Independent Members must consider their availability to prepare for and attend hearings before they make a firm commitment to sit. Failure by a member to meet an agreed sitting may result in the hearing having to be cancelled and a new hearing arranged at considerable expense and inconvenience to all parties.
7. The independence and impartiality of Independent Members is a fundamental requirement of the misconduct panel process. The ERPCCs have agreed that 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, ongoing independence is essential and Independent Members must immediately inform the Chief Executive of the appointing PCC if there is any change in their circumstances that may affect their eligibility to continue as an Independent Member.

#### **Exclusions**

- Serving and former police officers;
- Serving and former police staff;
- Serving and former special constables;
- Serving and former Police Authority/ OPCC Audit Committee Members;
- Current and former police and crime commissioners (from any Force area);
- Current and former PCC staff (from any Force area);
- Former police authority members and officers (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).
8. In order to maintain confidence in the process, the ERPCCs 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 of the appointing PCC if they are reported, or arrested for, or charged with a criminal offence.
  9. The ERPCCs 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 any of the ERPCCs, or a police officer or member of police staff or special constable of the Eastern Region Constabularies. 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 of the appointing PCC of any subsequent relationships that may give rise to a perceived conflict of interest with the Independent Member role.
  10. All new Independent Members will be required to attend an approved one-day regional training course before they are allowed to sit on a Misconduct Panel. Each PCC will 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 by the participating PCCs.
  11. Whilst there will be no formal appraisal of an Independent Member's performance, the Assistant Chief Constable (ACC) chairman of a panel, or other officiating police officer on a panel, will be expected to bring to the attention of the Chief Executive to the appointing PCC 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 13 below.
  12. 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 to the appointing PCC.
  13. Any concerns about an Independent Member or his/her performance and/or conduct will be discussed with the individual by the Chief Executive of the appointing PCC or his/her nominated representative. However, should the matter remain unresolved the procedures for considering possible removal would be invoked (see paragraph 16 below).
  14. 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.

15. The appointment of an Independent Member may be suspended at any time by the Chief Executive of the appointing PCC upon receiving a report of misconduct or poor performance on the part of the Independent Member.
16. The Chief Executive of the appointing PCC 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 of the appointing PCC. The Chief Executive of the appointing PCC 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.
17. An appeal lies from this decision to the appointing PCC.
18. 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).
19. In this document, the following definitions/explanation apply:

### **Definitions**

- (1) “the Eastern Region Police and Crime Commissioners (ERPCCs) ” and “the Eastern Region Constabularies” mean, respectively, the PCCs and Constabularies of Bedfordshire, Cambridgeshire, Essex, Hertfordshire, Norfolk and Suffolk.
- (2) “the appointing Police and Crime Commissioner (PCC)” means the PCC who confirmed the appointment of an Independent Member to serve on Misconduct Panels.

**APPENDIX 1**  
**JOB DESCRIPTION**

**Position**

Independent Member of Police Misconduct Panel

**Role**

- To assist 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.
- 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.
- Communication              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.

**EASTERN REGION POLICE AND CRIME COMMISSIONERS**

**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)	<b>£211.50</b>
Half day, i.e. sittings of 4 hours or less (excluding meal breaks)	<b>£104.50</b>

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.

It is also recognised that there may be occasions when panel members suffer financial loss, for example, because of cancelled sittings. In such circumstances, where it can be demonstrated that significant financial loss has been caused, Members may claim fees which will be payable at the discretion of the commissioning Police and Crime Commissioner’s Chief Executive.

**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).

**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. A receipt for travel by taxi must be provided and 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. A night 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.

The rate payable is **£96.00**.

This rate has been made up as follows:-

- Actual receipted bed and breakfast expenditure up to a limit of **£70.00**.
- **Plus** a flat rate allowance of **£26.00**. This allowance is intended to cover dinner, lunch and local travel (for example between your hotel and the place of the hearing) and also to cover miscellaneous personal expenses. **No additional amount is payable.**

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:-

Absence of more than 5 hours and less than 10 hours **£4.25**

Absence of more than 10 hours **£9.30**

This is a flat rate allowance that may be claimed whether the cost of meals was more, or less, than the actual amount of expenditure. It is not necessary for receipts to be provided. The allowance should not, of course, be claimed if a meal is provided free of charge.

Day subsistence allowances will not be paid concurrently with night subsistence allowances. However, a member who necessarily stays overnight for the purposes of a hearing may attract a day subsistence allowance when he is absent from home for more than 5 hours or more than 10 hours after a complete period of 24 hours attracting night subsistence allowance has expired.

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

#### MISCELLANEOUS EXPENSES

8. The cost of telephone calls etc. necessarily incurred e.g. arranging accommodation may be claimed.

#### VAT

9. VAT may be claimed by those members registered for the purposes of VAT. In these cases the VAT registration number should be shown.

#### COMPLETION OF CLAIM FORMS

10. Blank claim forms are available from the Professional and Ethical Standards Office of the Constabulary arranging the misconduct panel hearing. Completed claims should be returned to that office.
11. It would be helpful if members could clearly separate on the claim forms the actual times spent on travel and on a sitting.

If you have any queries about these expenses, please contact the Office of the Police and Crime Commissioner for Suffolk, Tel: 01473 782771.